

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

MV PUBLIC TRANSPORTATION, INC.

and

**Case Nos. 29-CA-29530
 29-CA-29760**

JOHN D. RUSSELL, AN INDIVIDUAL

and

Case No. 29-CA-29544

**LOCAL 1181-1061, AMALGAMATED TRANSIT
UNION, AFL-CIO**

and

Case No. 29-CA-29619

**LOCAL 707, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, Party to the Contract**

**LOCAL 707, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**

and

Case No. 29-CB-13981

JOHN D. RUSSELL, AN INDIVIDUAL

**RESPONDENT'S SECOND MOTION TO PARTIALLY DISMISS THE COMPLAINT
OR, IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT**

LITTLER MENDELSON
A Professional Corporation
H. TOR CHRISTENSEN
1150 17th Street, NW
Suite 900
Washington, D.C. 20036
(202) 842-3400

Attorneys for Respondent
MV PUBLIC TRANSPORTATION, INC.

Dated: October 23, 2009

COMES NOW RESPONDENT MV PUBLIC TRANSPORTATION, INC. by and through its attorneys undersigned and, pursuant to the National Labor Relations Board's Rules and Regulations, specifically Rule 102.24, moves to partially dismiss the Consolidated Complaint issued in Case Nos. 29-CA-29530 and 29-CA-29544 (the "Complaint"), or in the alternative, moves for partial summary judgment with respect to the claims of unlawful recognition.

The Complaint in this matter (copy attached as Exhibit A) alleges, among other things, that Respondent unlawfully recognized the International Brotherhood of Teamsters, Local 707 (the "Union"), as the collective bargaining representative of its employees based upon two charges filed more than six months after the date of the recognition of the Union. The Regional Director dismissed charges regarding the recognition of the Union filed by the Amalgamated Transit Union, Local 1181 (the "ATU") as time barred under Section 10(b) of the National Labor Relations Act.

Respondent now seeks partial dismissal of the Complaint and/or partial summary judgment on the claims of alleged unlawful recognition of the Union, because the General Counsel is not permitted to challenge the recognition of the Union while simultaneously scheduling a deauthorization election.

I. STATEMENT OF FACTS

A. MV Public Transportation, Inc.

MV Public Transportation, Inc. ("Respondent"), under contract with the New York City Metropolitan Transportation Authority, provides paratransit services to a monthly average of 26,000 passengers in the borough of Staten Island. These paratransit services allow Respondent's passengers to attend medical appointments, maintain employment and participate in recreational activities.

B. The Lawful Recognition of the Union.

Respondent entered into a card check and neutrality agreement with the Union on August 28, 2008 (copy attached as Exhibit B). In brief, the Agreement provided that Respondent would recognize the Union upon a showing that a majority of employees had signed authorization cards or a petition. The agreement further provided that a labor arbitrator or commissioner from the Federal Mediation and Conciliation Service was required to certify the showing of interest. Respondent further agreed to maintain a neutral position as to whether employees were to be represented by the Union and, in exchange, the Union agreed not to engage in negative public campaigning against Respondent as part of its organizational activities.

On September 11, 2008, Arbitrator Elliot D. Shriftman, Esq. certified that the union possessed 20 valid authorization cards from current employees of Respondent, out of 22 total employees. Arbitrator Shriftman executed a Certification of Results of Card Check and Count on that day (copy attached as Exhibit C).

On September 12, 2008, Respondent and the Union executed a Recognition Agreement ("Agreement") (copy attached as Exhibit D). After that point, the Union met with the represented employees, and the parties engaged in negotiations for a first contract. The required 'Dana Notices' were sent to Respondent on October 2, 2008, and were posted on October 5, 2008, and remained up for the required period of time. The employees ratified a collective bargaining agreement on December 11, 2008, which the Union and Respondent signed on December 12, 2008 (copy attached as Exhibit E).

C. John D. Russell's Charge

John D. Russell ("Charging Party") presently works for Respondent as a Driver. Respondent hired him on October 20, 2008. He filed the instant charges on March 31, 2009 (copy attached as Exhibit F). The ATU filed similar charges on April 9, 2009, alleging, among other things, that Respondent unlawfully recognized the Union (copy attached as Exhibit G). On July 24, 2009, the Regional Director dismissed charges related to the recognition of IBT Local 707 (copy attached as Exhibit H). Upon information and belief, Respondent understands that the

Regional Director dismissed the charge because it was filed outside the six-month statute of limitations provided by Section 10(b), which ended on March 12, 2009. Upon further information and belief, Respondent understands that the Regional Director is refusing to dismiss the Charging Party's charge because the Regional Director has taken the position that the 10(b) statute of limitations period did not commence until Respondent hired the Charging Party. This was the subject of Respondent's First Motion to Dismiss.

D. Petitions Filed by Charging Party

Charging Party filed two additional Petitions with the Board on October 9, 2009. These RD and UD Petitions were communicated to Respondent in a letter dated October 14, 2009, along with a letter requesting Respondent's position on whether a valid UD election could be conducted while the Consolidated Complaint was pending (copies attached as Exhibit I). Respondent replied with a position statement dated October 19, 2009, which briefly stated that because Type II charges were pending, no election should take place, in accordance with Casehandling Manual §§11730-11734, 11730(a) (copy attached as Exhibit J). The Union took a similar position, in a letter dated October 20, 2009 (copy attached as Exhibit K). Further, due to the nature of the pending unfair labor practice charges, a free and fair UD election is not possible, so long as they continue to be processed. Nonetheless, the Regional Director informed the parties that he was directing an election, in a letter dated October 22, 2009 (copy attached as Exhibit L).

II. ARGUMENT

The General Counsel should not be permitted to challenge the underlying recognition between an employer and a labor organization, and to simultaneously utilize that recognition to hold a deauthorization election. As there has now been a deauthorization election scheduled in this matter, the General Counsel should be precluded from pursuing unfair labor practice charges that should not exist in the context of a deauthorization election.

Section 8(a)(3) of the Act states in relevant part (emphasis added):

Provided, that nothing in this subchapter . . . shall preclude an employer from making an agreement with a labor organization (**not established, maintained, or assisted by any action defined in this subsection as an unfair labor practice**) to require as a condition of employment membership therein . . . (ii) unless following an election held as provided in section 159(e) of this title within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement.

Section 9(e)(1), which authorizes deauthorization elections to be held, states (emphasis added):

Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization **made pursuant to section 158 (a)(3) of this title**, of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer.

In this case, there has not been any determination as to whether the Respondent provided unlawful recognition to the Union. That question is one of the central issues underlying the Complaint. Regional Director Blyer's reliance on Andor Co., Inc., 119 NLRB 925 (1957) is misplaced. That case was decided on the issue of whether a facially invalid union security clause could be disestablished through a deauthorization election. In holding that Section 9(e)(1) was applicable to either valid or invalid deauthorization petitions, the Board did not hold that the both deauthorization and unfair labor practice charges could be pursued simultaneously. In fact, no unfair labor practice charge was filed in Andor Co., Inc. Id at 933. Another, more recent Board case, Parks Food Service, 235 NLRB 1410 (1978), is more directly on point. In Parks Food Service, the Board upheld the exceptions of a union which had lost a deauthorization election, in part because the pending unfair labor practice charges (that the employer had unlawfully refused to withhold dues) denied employees a free choice in the election.

As you are well aware, the underlying purpose of 'blocking charges' or holding petitions

in abeyance until the resolution of unfair labor practices filed against the parties involved with the petition, is to prevent pending unfair labor practice charges from affecting employee free choice in these elections. The General Counsel's decision to prosecute certain charges could easily be perceived to signify some degree of guilt on the part of the Respondent. Therefore, the General Counsel should not be permitted to pursue unlawful recognition charges while the Region processes a petition seeking to deauthorize the union security clause of the very union it has filed charges against.

The Casehandling Manual recognizes the dichotomy inherent in pursuing charges which challenge the recognition of a union, while at the same time scheduling a deauthorization election for that same bargaining unit. In fact, the Casehandling Manual states, "[t]o the extent relevant, the principles of these Sections should also be applied to situations involving UD petitions." Casehandling Manual §11730-11734 (discussing blocking charges).

Regional Director Blyer has correctly held in abeyance the processing of the previously filed RC and RD petitions in light of the Type II charges filed by the Charging Party. However, his decision to order a deauthorization election is inconsistent with the simultaneous pursuit of unlawful recognition and unlawful assistance charges in the Complaint. See Parks Food Service, 235 NLRB 1410 (1978) (where the Board sustained the exceptions of the union who had lost the vote on a deauthorization petition because the pending unfair labor practice charges denied employees, "a free and untrammelled choice as to whether to retain the [union security] clause."). In this case, the continuing pendency of these unfair labor practice charges will interfere with employee free choice in the UD election. Employees will be asked to vote in a Board supervised election, on whether to pay dues to their Union – a union which the Board itself is challenging as unlawfully recognized. Further, the Complaint alleges that the Union continues to engage in several unlawful practices, which will undoubtedly have a profound effect on the results of the UD election. These pending charges will deny employees a free choice in the now scheduled UD election, and therefore must be dismissed.

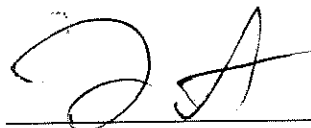
Clearly, the results of a UD election, where the Union has been accused by the very same government agency responsible for administering the election of various unlawful practices, including the allegation that the union does not lawfully represent those employees, would be different from one where the union has either been cleared of these charges, or otherwise appropriately sanctioned. As an Order for an Election on the UD Petition has been issued, the unlawful recognition charges should be dismissed.

III. CONCLUSION

The information submitted in this motion and the attached exhibits establish that the Charging Party's Type II charges should be dismissed. Accordingly, Respondent respectfully requests that the Board issue an Order partially dismissing the Complaint, or, in the alternative, grant summary judgment for the Respondent as to the Type II charges, including, but not limited to, the charges of unlawful recognition.

October 23, 2009

LITTLER MENDELSON
A Professional Corporation

By: 

H. TOR CHRISTENSEN
Attorneys for Respondent
MV PUBLIC TRANSPORTATION, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of October, 2009, a copy of the foregoing Second Motion To Dismiss Partially Dismiss The Complaint Or, In The Alternative, Motion For Partial Summary Judgment was served electronically upon the National Labor Relations Board, and by first-class U.S. mail, postage prepaid, upon:

George Kirschenbaum, Esq.
Cary Kane, LLP
1350 Broadway, Suite 815
New York, NY 10018
Counsel for IBT Local 707

Richard Brook, Esq.
Meyer, Suozzi, English & Klein, P.C.
1350 Broadway
New York, NY 10018
Counsel for ATU Local 1181

John D. Russell
667 Quincy Avenue
Staten Island, NY 10305

Eric Baumwoll
63 Ebony Street
Staten Island, NY 10306

Alvin P. Blyer
Regional Director
National Labor Relations Board – Region 29
Two Metro Tech Center
100 Myrtle Avenue, 5th Floor
Brooklyn, NY 11201-4201



H. Tor Christensen

EXHIBIT A

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

MV PUBLIC TRANSPORTATION, INC.

and

Case Nos. 29-CA-29530
29-CA-29760

JOHN D. RUSSELL, AN INDIVIDUAL

and

Case No.: 29-CA-29544

LOCAL 1181-1061, AMALGAMATED TRANSIT
UNION, AFL-CIO

and

ERIC BAUMWOLL, AN INDIVIDUAL

Case No.: 29-CA-29619

and

LOCAL 707, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, Party to the Contract

LOCAL 707 INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

and

Case No. 29-CB-13981

JOHN D. RUSSELL, AN INDIVIDUAL

ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT
AND NOTICE OF HEARING

John D. Russell, an Individual, herein called Russell, in Case Nos. 29-CA-29530, 29-CA-29760; Eric Baumwoll, an Individual, herein called Baumwoll, in Case No. 29-CA-29619; and, Local 1181-1061, Amalgamated Transit Union, AFL-CIO, herein called Local 1181, in Case No. 29-CA-29544, have each charged that MV Public Transportation, Inc., herein called Respondent MV, has engaged in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations

RECEIVED

OCT - 5 2009

Act, as amended, 29 U.S.C. Section 151, et. seq., herein called the Act. Russell has also charged, in Case No. 29-CB-13981, that Local 707, International Brotherhood of Teamsters, herein called Respondent Teamsters, has been engaging in unfair labor practices affecting commerce as set forth in the Act. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, **ORDERS** that these cases be consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in Case No. 29-CA-29530 was filed by Russell on March 31, 2009, and served by regular mail upon Respondent MV on April 2, 2009.
- (b) The charge in Case No. 29-CB-13981 was filed by Russell on March 31, 2009, and served by regular mail upon Respondent Teamsters on April 2, 2009.
- (c) The charge in Case No. 29-CA-29760 was filed by Russell on August 7, 2009, and served by regular mail upon Respondent MV on August 19, 2009.
- (d) The charge in Case No. 29-CA-29544 was filed by Local 1181 on April 9, 2009, and served by regular mail upon Respondent MV on April 14, 2009;
- (e) The first amended charge in Case No. 29-CA-29544 was filed by Local 1181 on June 9, 2009, and served by regular mail upon Respondent MV on June 11, 2009.
- (f) The charge in Case No. 29-CA-29619 was filed by Baumwoll on May 22, 2009, and served by regular mail upon Respondent MV on May 27, 2009.

2. At all material times, Respondent MV, a domestic corporation, with its principal office and place of business located at 1957 Richmond Terrace, Staten Island, New York, herein called the Richmond Terrace facility, and with other locations in Staten Island, New York, including places of business located at 40 LaSalle Street, herein called the LaSalle Street facility, and 900 South Avenue, herein called the South Avenue facility, has been engaged in providing paratransit services for the City of New York, and other corporate clientele.

3. During the past year, which period is representative of its annual operations generally, Respondent MV, in the course and conduct of its operations described above in paragraph 2:

- (a) derived gross annual revenues in excess of \$250,000; and,
- (b) purchased and received at its Staten Island facilities, goods and materials valued in excess of \$5,000 directly from suppliers located outside the State of New York.

4. At all material times, Respondent MV has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5. (a) At all material times, Respondent Teamsters has been a labor organization within the meaning of Section 2(5) of the Act.

(b) At all material times, Local 1181 has been a labor organization within the meaning of Section 2(5) of the Act.

(c) At all material times, Local 726, International Union of Journeymen and Allied Trades, herein called Local 726, has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals employed by Respondent MV have held the positions listed next to their names and have been supervisors of

Respondent MV within the meaning of Section 2(11) of the Act and/or agents acting on its behalf:

Quinto Rapacioli General Manager

John Duncan Regional Manager

7. On or about September 12, 2008, Respondent MV granted recognition to Respondent Teamsters as the exclusive collective bargaining representative of Respondent MV's employees in the following Unit, herein called the Unit:

All full-time and regular part-time drivers in Staten Island, New York, excluding warehouse employees, mechanics and similar maintenance employees, office clerical employees, managerial employees, guards and supervisors as defined by the National Labor Relations Act.

8. On or about September 12, 2008, Respondent Teamsters accepted recognition from Respondent MV as the exclusive collective bargaining representative of the Unit.

9. Respondent MV engaged in the conduct described above in paragraph 7, even though at the time, Respondent MV:

(a) did not employ a representative segment of its ultimate employee complement; and,

(b) was not yet engaged in its normal operations of providing paratransit services at its Staten Island facilities.

10. Respondent Teamsters engaged in the conduct described above in paragraph 8, even though at the time, Respondent MV:

(a) did not employ a representative segment of its ultimate employee complement; and,

(b) was not yet engaged in its normal operations of providing paratransit services at its Staten Island facilities.

11. On or about October 20, 2008, Respondent MV, by its agent Rapacioli, at the South Avenue facility, conditioned its employees' employment on their agreeing to sign authorization cards on behalf of Respondent Teamsters.

12. On or about December 12, 2008, Respondent MV entered into, and since then has maintained and enforced, a collective bargaining agreement with Respondent Teamsters, as the exclusive collective bargaining representative of Respondent MV's employees in the following modified unit, herein called the Contract Unit:

Full-time, part-time and casual drivers, mechanics and utility workers working under any Contract between the Company and New York City Transit Authority excluding office clerical employees, mechanics, utility workers, professional employees, road supervisors, dispatchers, guards and supervisors as defined in the Act.

13. Since on or about December 12, 2008, Respondent MV and Respondent Teamsters have maintained and enforced the collective bargaining agreement referred to above in paragraph 12, and which contains Union Security and Check-Off provisions in Article 3, Sections 3.2 and 3.3, respectively, attached hereto as Exhibit A.

14. Respondent MV engaged in the conduct described above in paragraphs 12 and 13 even though it did not employ a representative segment of its employee complement, and was not yet engaged in its normal operations when it conferred recognition upon Respondent Teamsters, described above in paragraphs 7 and 9.

15. Respondent Teamsters engaged in the conduct described above in paragraphs 12 and 13 even though Respondent MV did not employ a representative segment of its employee complement, and was not yet engaged in its normal operations when Respondent Teamsters accepted recognition from Respondent MV, described above in paragraphs 8 and 10.

(b) threatened to discharge its employees if they spoke about Local 1181.

20. By the conduct described above in paragraphs 16 through 19, Respondent MV has been interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

21. By engaging in the conduct described above in paragraphs 7, 9 and 11 through 14 and 16, Respondent MV has encouraged its employees to join and support Respondent Teamsters, even though Respondent Teamsters did not represent an uncoerced majority of the Unit.

22. By engaging in the conduct described above in paragraphs 8, 10, 12, 13 and 15, Respondent Teamsters has caused Respondent MV to encourage its employees to join Respondent Teamsters, even though Respondent Teamsters, at all material times, did not represent an uncoerced majority of the Unit.

23. By the conduct described above in paragraphs 7, 9, 11 through 14 and 16, Respondent MV has been rendering unlawful assistance and support to a labor organization in violation of Section 8(a)(1) and (2) of the Act.

24. By the conduct described above in paragraphs 11, 13 and 14, Respondent MV has been encouraging their employees to join, support or assist Respondent Teamsters thereby encouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

25. By the conduct described above in paragraphs 8, 10, 12, 13 and 15, Respondent Teamsters has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(b)(1)(A) of the Act.

26. By the conduct described above in paragraphs 13 through 15, Respondent Teamsters has attempted to cause, and has caused, Respondent MV to

discriminate against its employees in violation of Section 8(a)(3) of the Act, in violation of Section 8(b)(2) of the Act.

25. The unfair labor practices of Respondent MV and Respondent Teamsters, described above, affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondents' unfair labor practices alleged above, the General Counsel seeks an Order which includes the standard make whole remedy, but that in addition thereto, that interest on any monetary compensation owed to employees be computed on a compounded quarterly basis. The General Counsel further seeks an Order requiring that Respondents, in addition to any standard notice-posting remedy ordered, post any notice to employees and/or members via its internet, e-mail, or other electronic procedures. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

RESPONDENT MV and RESPONDENT TEAMSTERS ARE NOTIFIED that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file an Answer to the Consolidated Complaint. The Answer must be **received by this office on or before, October 13, 2009, or postmarked on or before October 9, 2009.** Respondents should file an original and four (4) copies of the Answer with this office and serve a copy of the Answer on each of the other parties. **Any request for an extension of time to file an answer must, pursuant to Section 102.111(b) of the Board's Rules and Regulations, be received by close of business on October 13, 2009. The request should be in writing and addressed to the Regional Director of Region 29.**

An Answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website

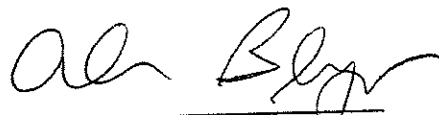
at <http://www.nlr.gov>, click on **E-Gov**, then click on **the E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than two (2) hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the Answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an Answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If an Answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer needs to be transmitted to the Regional Office. However, if the electronic version of an Answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such Answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the Answer on each of the other parties must still be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The Answer may **not** be filed by facsimile transmission. See Section 102.114(g) of the Board's Rules and Regulations. If no Answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Consolidated Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **November 17, 2009**, at 9:30 a.m., a hearing will be conducted at Two MetroTech Center, Suite 5100, Brooklyn, New York, before an

administrative law judge of the National Labor Relations Board. At the hearing, Respondents and any other party to this proceeding has the right to appear and present testimony regarding the allegations in this Consolidated Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Brooklyn, New York, September 30, 2009.

A handwritten signature in black ink, appearing to read "Alvin Blyer", is written over a horizontal line.

Alvin Blyer, Regional Director
National Labor Relations Board
Region 29
Two MetroTech Center, Suite 5100
Brooklyn, New York 11201

ARTICLE 1-TERM OF AGREEMENT

This Agreement is entered into effective this 12th day of December 2008, by and between MV Public Transportation, INC. doing business as MV Transportation (hereinafter referred to as the "Company") and Teamsters Local Union Number 707 (hereinafter referred to as the "Union"). Its purpose is the promotion of harmonious relations between the company and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay, hours of work and other conditions of employment.

ARTICLE 2-RECOGNITION

Section 2.1-Bargaining Representative

The Company recognizes the Union as the exclusive bargaining agent for all employees in the bargaining unit.

Section 2.2-Covered Employees

The bargaining unit includes full time, part time and casual drivers, mechanics and utility workers working under any Contract between the Company and New York City Transit Authority excluding office clerical employees, mechanics, utility workers, professional employees, road supervisors, dispatchers, guards and supervisors as defined in the Act.

ARTICLE 3-PARTICIPATION

Section 3.1-Purpose

It is the purpose of this article to provide that all employees covered by this Agreement share equally the Union's costs incurred to negotiate, administer and enforce the terms of this Agreement.

Section 3.2-Membership

An employee assigned to a covered classification which is employed by the Company on the date of contract ratification, as a condition of employment, will become and remain a member in good standing of the Union, not later than the 31st day following the employee's completion of training or the contract ratification date, whichever is later. For purposes of this article and employee shall be considered a member in good standing if he/she tenders the uniformly required periodic dues and or initiation fees related to representation costs. In the event the employee fails to tender a uniformly periodic dues and or initiation fees related to representation cost, the union shall send written notice to the employee, with a copy to the employer, advising him/her the he/she no longer is a member of the union in good standing, and warning the employee that unless the uniformly required periodic dues and initiation fee related to

representation costs are paid with seventy-two (72) hours the employer shall be requested to discharge him/her. If the employee, after such notification from the union does not correct his/her default with seventy-two (72) hours, the union may send written notice to the employer, with a copy to the employee, demanding his/her discharge and the employer shall immediately discharge the said employee. A discharge made pursuant to this agreement shall not be subject to the grievance and arbitration procedure of this agreement. The Union agrees to indemnify and hold harmless the employer against any damage or expense incurred by reason of a discharge affected at the request of the Union.

(a) In the event of any change in the law during the term of this agreement, the Employer agrees that the Union will be entitled to receive a maximum union security which may be lawfully permissible, be renegotiated for purposes of adequate replacement.

Section 3.3 - Check off

The Company will give a Union membership application to each operator during initial training, and will forward complete applications to the Union. Membership as used herein shall mean only an obligation of an employee to pay periodic dues and initiation fees uniformly required, or in the event that the employee objects to full dues and initiation fees, only to the obligation to pay periodic dues and initiation fees, as required by current law.

Section 2. It is further agreed that the Company shall deduct the initiation fees and dues from the pay of each employee, and shall forward all such fees and dues so deducted to the office of the Union each month. Such initiation fees and dues shall be deducted upon the basis of a dues deduction from voluntarily executed by the employee.

Section 3. Where an employee who is on Check-off is not on the payroll during the week in which the deduction is to be made, or has no earnings, or insufficient earnings during the week, or is on leave of absence, the employee must make arrangements with the Union to pay such dues before the end of the month.

Section 4. In the event an employee, fails to apply for or maintain his/her membership in the Union, after notice of his/her obligation to do so and opportunity to correct any failure to apply of failure to maintain membership, the Union may give the Company notice of this fact and the employment of such employee may be terminated by the Company.

Section 5. The Union shall indemnify the Company and hold it harmless against any and all claims, demands, suits, or other forms of liability of any kind, which may arise out of or by reason of actions taken by the Company for the purpose of complying with this Article.

EXHIBIT B

CARD CHECK AND NEUTRALITY AGREEMENT
FOR STATEN ISLAND NY

The parties to this Card Check and Neutrality Agreement ("Agreement") are Teamsters Local Union No. 707 (the "Union") and MV Transit, Inc. (the "Company").

WHEREAS, the Union and the Company share common goals of ensuring a strong future for the Company, the highest quality of service to the customers of the Company, and the best possible working conditions for employees of the Company; and

WHEREAS, the Union and the Company are both committed to the principle that employees' choice of whether or not to be represented by a union should be left up to the employees themselves to decide.

Therefore, the Union and the Company hereby agree as follows:

A. Appropriate Bargaining Unit

1. The following bargaining unit of employees of the Company is an appropriate unit for collective bargaining purposes:

All full-time and regular part-time drivers in Staten Island NY, but excluding warehouse employees, mechanics and similar maintenance employees, office clerical employees, managerial employees, guards, and supervisors as defined by the National Labor Relations Act.

2. It is the intent of the parties that disputes regarding the placement of employees in the bargaining unit, such as whether a person is a supervisor or not, should be resolved through direct discussion between the parties. Such disputes shall be subject to the obligations of good faith bargaining. This Agreement shall not waive, compromise or prejudice the position or rights of either party with respect to any such subject that is not resolved in the course of good faith bargaining. Disputes over the placement of employees in the bargaining unit shall not delay recognition of the Union in accordance with the card-check procedure set forth below.

Card Check and Neutrality Agreement
Teamsters Local 707 and MV Transit
Page 2 of 3

B. Card-Check Procedure

3. The Company agrees to voluntarily recognize the Union upon a showing by the Union that it represents a majority of employees in the appropriate bargaining unit described above. Proof of majority status shall be based upon signed authorization cards or petitions submitted by the Union and verified by an independent, neutral third party mutually selected by the parties, such as a labor arbitrator or a commissioner from the Federal Mediation and Conciliation Service. The parties agree that upon written request from the Union for recognition based upon this card check procedure, the parties will arrange for verification by the neutral third party as soon as reasonably possible, and in any event no later than 20 calendar days after the date of such request.

4. The Company agrees that for the purpose of verifying majority status of the Union, the Company will provide such neutral third party with a list of the names of all employees in the appropriate bargaining unit, one or more documents bearing the clear signature of each employee, and such other information as the neutral third party may reasonably require to verify the Union's claim of majority status. The neutral third party shall have the authority to resolve any disputes that may arise about the signed cards or petitions, such as whether the signature is that of an employee in the bargaining unit.

5. The neutral third party shall maintain as confidential the names of the employees who have signed authorization cards or petitions, or of those employees who have not signed, and shall not disclose such information to the Company. He or she shall only disclose whether or not the Union's claim of majority status has been duly verified in the following format: "A majority of employees in the appropriate bargaining unit has [or has not] chosen the Union to represent them as their collective bargaining representative." Should the neutral third party need to make any determination with respect to disputes such as whether an employee's signature is valid or an authorization card is from an employee in the bargaining unit, the neutral third party shall make his or her determination without disclosing the name of the employee in question.

6. The Company and the Union shall share equally in the fees and costs, if any, associated with the verification procedure by the neutral third party.

7. Following the Union's verification of majority status through the above procedure, the Employer agrees to recognize the Union immediately, and to meet promptly and engage in good faith negotiations with the Union about the terms of a collective bargaining agreement.

Card Check and Neutrality Agreement
Teamsters Local 707 and MV Transit
Page 3 of 3

C. Neutrality

8. The Company agrees to maintain a neutral position with regard to the question whether employees wish to be represented by the Union. Although the parties recognize that managerial and supervisory staff may personally hold a variety of views on the issue of union representation, supervisors, managerial employees, and other representatives of the Company will refrain from campaigning or attempting to influence employees' choice on the question of unionization, leaving that choice to the employees themselves to decide.

9. The Company agrees that it will not discriminate against, interfere with, restrain, or coerce employees regarding their support for the Union or activities on behalf of the Union. Similarly, the Union will not threaten or coerce employees in regard to their support or lack of support for the Union. Further, so long as the Company complies with this Agreement, the Union will not engage in negative public campaigning against the Company as part of its organizational activities.

IN WITNESS WHEREOF, the parties have executed this Card Check and Neutrality Agreement, which is effective on the last date signed below.

TEAMSTERS LOCAL UNION NO. 707

By: DL McClellan

Dated: 8-28-08

MV TRANSIT INC.

By: David P. ...

Dated: 8-28-08

EXHIBIT C

CERTIFICATION OF RESULTS OF CARD CHECK AND COUNT

Pursuant to the terms of a card-check agreement dated, August 28, 2008 the undersigned was jointly designated by Highway and Local Motor Freight Drivers, Teamsters Local 707 ("Union"), located at 14 Front Street, Suite 300, Hempstead, NY 11550 and MV Transit Inc. ("Employer"), located at 125 Lake Avenue, Staten Island, NY 10303, to determine the Union's majority status in a unit of all full time and regular part time drivers employed by the Employer and excluding all other employees (the "Unit").

On September 11, 2008, the Union provided me with authorization cards signed by employees of the Employer in the Unit, and dated within the ninety (90) day period preceding the date of this Certification, designating the Union as their collective bargaining representative.

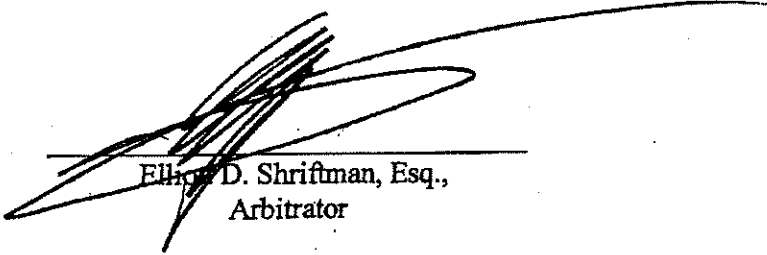
On the same date, the Employer provided me with a list of employees employed by the Employer in the Unit during the payroll period ending September 13, 2008 together with signature specimens for such employees. The parties stipulated that there are currently twenty two (22) employees in the Unit.

On September 11, 2008, after comparing signatures on the authorization cards presented by the Union with signature specimens provided by the Employer, the undersigned determined:

- 1) that the Union possessed (20) valid authorization cards; and
- 2) that, accordingly, the Union has been designated by a majority of the Employer's employees in the Unit as their representative for purposes of collective bargaining.

Therefore, in accordance with the terms of the card-check agreement referred to above, it is hereby certified that the Union is the collective bargaining representative of the Unit employees.

Dated: New York, New York
September 11, 2008



Elliot D. Shriftman, Esq.,
Arbitrator

State of New York)

ss.:

County of Suffolk)

I, Elliott D. Shriftman, do hereby affirm upon my Oath as Arbitrator, that I am the individual described in and who executed this instrument, which is my Certification of Results of Card Check and Count.



Elliott D. Shriftman, Esq.,
Arbitrator

EXHIBIT D

RECOGNITION AGREEMENT

WHEREAS, Teamsters Local Union 707 (the "Union") and MV Transit, Inc (the "Employer"), are parties to a Card Check and Neutrality Agreement for Staten Island, NY.

WHEREAS, pursuant to the terms of that Agreement, the parties asked Arbitrator Elliott Shriftman to conduct a card check to determine whether the Union represents a majority of the Employer's employees who are employed in the following appropriate bargaining unit: "All full time and regular part time drivers in Staten Island, NY, but excluding warehouse employees, mechanics and similar maintenance employees, office clerical employees, managerial employees, guards and supervisors as defined by the National Labor Relations Act."

WHEREAS, Arbitrator Shriftman conducted the card check on September 11, 2008 and has certified that a majority of the bargaining unit employees have designated the Union as their exclusive representative for the purpose of collective bargaining.

NOW, THEREFORE, based upon Arbitrator Shriftman's certification, and the terms and conditions contained in the parties' Card Check and Neutrality Agreement, the Employer hereby recognizes the Union as the exclusive representative for the purposes of collective bargaining of all of the Employer's full time and regular part time drivers in Staten Island, NY but excluding warehouse employees, mechanics and similar maintenance employees, office clerical employees, managerial employees guards and supervisors as defined in the National Labor Relations Act.

NOW, THEREFORE, the parties further agree that they will meet promptly and engage in good faith negotiations concerning the terms of a Collective Bargaining

Agreement governing the wages, hours and other terms of employment of the employees
in the appropriate bargaining unit.

Teamsters Local Union No. 707

MV Transit, Inc.

By: Kevin McCaffrey
Kevin McCaffrey, President

By: Richard Pires
Richard Pires, Labor Manager

Date: 9-12-08

Date: 9/12/08

EXHIBIT E

Collective Bargaining Agreement

Between

MV Public Transportation, Inc.

And

**The International Brotherhood of
Teamsters, Local 707**

Effective: December 12, 2008

Expires: December 31, 2013



Table of Contents

<u>Article</u>	<u>Page</u>
1 - Term of Agreement	1
2 - Recognition	1
3 - Participation	1
4 - Management Rights	3
5 - Representatives' Rights	5
6 - Bulletin Boards	6
7 - Compliance with Law	6
8 - Affirmative Action	6
9 - No Strike, No Lockout	7
10 - Discipline	7
11 - Grievance Procedure	11
12 - Categories of Employees	14
13 - Hours of Work & pay	14
14 - Seniority	15
15 - Bidding	16
16 - Drug and Alcohol Program	17
17 - Breaks & Lunches	17
18 - Holidays	18
19 - Vacation	19
20 - Life Insurance	19
21 - Safety and Attendance Incentive	20
22 - Wages	20
22 - 401K Plan	21
23 - Health Insurance	21
24 - Uniforms	22
25 - Complete Agreement	22
26 - Term of Agreement	23

ARTICLE 1-TERM OF AGREEMENT

This Agreement is entered into effective this 12th day of December 2008, by and between MV Public Transportation, INC. doing business as MV Transportation (hereinafter referred to as the "Company") and Teamsters Local Union Number 707 (hereinafter referred to as the "Union"). Its purpose is the promotion of harmonious relations between the company and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay, hours of work and other conditions of employment.

ARTICLE 2-RECOGNITION

Section 2.1-Bargaining Representative

The Company recognizes the Union as the exclusive bargaining agent for all employees in the bargaining unit.

Section 2.2-Covered Employees

The bargaining unit includes full time, part time and casual drivers, mechanics and utility workers working under any Contract between the Company and New York City Transit Authority excluding office clerical employees, mechanics, utility workers, professional employees, road supervisors, dispatchers, guards and supervisors as defined in the Act. REMOVE

ARTICLE 3-PARTICIPATION

Section 3.1-Purpose

It is the purpose of this article to provide that all employees covered by this Agreement share equally the Union's costs incurred to negotiate, administer and enforce the terms of this Agreement.

Section 3.2-Membership

An employee assigned to a covered classification which is employed by the Company on the date of contract ratification, as a condition of employment, will become and remain a member in good standing of the Union, not later than the 31st day following the employee's completion of training or the contract ratification date, whichever is later. For purposes of this article and employee shall be considered a member in good standing if he/she tenders the uniformly required periodic dues and or initiation fees related to representation costs.

In the event the employee fails to tender a uniformly periodic dues and or initiation fees related to representation cost, the union shall send written notice to the employee, with a copy to the employer, advising him/her the he/she no longer is a member of the union in good standing, and warning the employee that unless the uniformly required periodic dues and initiation fee related to

representation costs are paid with seventy-two (72) hours the employer shall be requested to discharge him/her. If the employee, after such notification from the union does not correct his/her default with seventy-two (72) hours, the union may send written notice to the employer, with a copy to the employee, demanding his/her discharge and the employer shall immediately discharge the said employee. A discharge made pursuant to this agreement shall not be subject to the grievance and arbitration procedure of this agreement. The Union agrees to indemnify and hold harmless the employer against any damage or expense incurred by reason of a discharge affected at the request of the Union.

(a) In the event of any change in the law during the term of this agreement, the Employer agrees that the Union will be entitled to receive a maximum union security which may be lawfully permissible, be renegotiated for purposes of adequate replacement.

Section 3.3 – Check off

The Company will give a Union membership application to each operator during initial training, and will forward complete applications to the Union. Membership as used herein shall mean only an obligation of an employee to pay periodic dues and initiation fees uniformly required, or in the event that the employee objects to full dues and initiation fees, only to the obligation to pay periodic dues and initiation fees, as required by current law.

Section 2. It is further agreed that the Company shall deduct the initiation fees and dues from the pay of each employee, and shall forward all such fees and dues so deducted to the office of the Union each month. Such initiation fees and dues shall be deducted upon the basis of a dues deduction from voluntarily executed by the employee.

Section 3. Where an employee who is on Check-off is not on the payroll during the week in which the deduction is to be made, or has no earnings, or insufficient earnings during the week, or is on leave of absence, the employee must make arrangements with the Union to pay such dues before the end of the month.

Section 4. In the event an employee, fails to apply for or maintain his/her membership in the Union, after notice of his/her obligation to do so and opportunity to correct any failure to apply or failure to maintain membership, the Union may give the Company notice of this fact and the employment of such employee may be terminated by the Company.

Section 5. The Union shall indemnify the Company and hold it harmless against any and all claims, demands, suits, or other forms of liability of any kind, which may arise out of or by reason of actions taken by the Company for the purpose of complying with this Article.

Section 4.2-Technology Rights

The Company may employ new technology, including video systems, GPS, mobile data terminals/computers and other present or future technologies for the transit industry, in order to help ensure the safety of the driver and passengers, and compliance with all federal, state and local driving rules and regulations by both the driver and the motoring or pedestrian public. The Company and the Union agree that any recording resulting from said technology may be used as evidence in the investigation of any incident involving the Company facility, another employee, or an employee while operating a Company vehicle. In the event any data or recording is used as evidence for purposes of disciplinary action, the Union shall be afforded an opportunity to view the evidence as soon as practicable after the action is taken. Any use of Technology for disciplinary purposes, as described in this Section, shall be in accordance with the terms of this Agreement and is subject to the grievance procedure contained herein. The Company shall meet with the Union before implementation of new technology on an advise and confer basis, in order to explain and clarify the use and effects of said technology. The Union maintains all rights to the grievance procedure contained in this Agreement in the case of disagreement concerning any implementation of new technology as stated in this Section.

Section 4.3-Client Contract

The Company and the Union acknowledge that the Company has entered into a contract(s) to provide transportation services with NYC Transit Authority, hereto known as the "Client." The contract between the Company and NYC Transit Authority contains specific performance requirements. Nothing contained in this Agreement will be construed to prohibit Company from fulfilling all of its contractual obligations to the Client. The Company will have the sole right to change any policies, rules and regulations governing employees with out renegotiation of this Agreement should such changes in policies, rules and regulations be required in order to comply with any governmental law or regulation or to comply with any provision of the agreement between the Company and the Client. The Company will discuss and obtain input from the Union on any other new policies, rules and regulations without renegotiation of this Agreement prior to implementation. However, the Company shall have the sole right to make any and all final decisions regarding the implementation of said policies, rules and regulations.

Section 4.4. The Company's failure to exercise any right, prerogative, or function hereby reserved to it, or the Company's exercise of any such right, prerogative, or function in a particular way, shall not be considered a waiver of the Company's right to exercise such right, prerogative, or function or preclude it from exercising the same in some other way not in conflict with the express provisions of this Agreement.

ARTICLE 4—MANAGEMENT RIGHTS

Section 4.1-Company Rights

Except as expressly modified or restricted by a specific provision of this Agreement, all statutory and inherent managerial rights, prerogatives and functions are retained and vested exclusively in the Company, in accordance with its sole and exclusive judgment and discretion, including, but not limited to these rights:

- (a) To reprimand, suspend, discharge, or otherwise discipline employees for just cause and to determine the number of employees to be employed.
- (b) To hire employees, determine their qualifications and assign and direct their work; to promote, demote, transfer, lay off, and recall to work.
- (c) To set the standards of productivity, the services to be rendered, to maintain the efficiency of operations; to determine the personnel, methods, means, and facilities by which operations are conducted, and to set the starting and quitting time and the number of hours and shifts to be worked.
- (d) To close down, or relocate the Company's operations or any part thereof; to expand, reduce, alter, sub-contract, combine, transfer, assign, or cease any job, department, operation, or service, to control and regulate the use of vehicles, facilities, equipment, and other property of the Company or the client.
- (e) To determine the price at which the Company contracts its services, to determine the methods of financing its operation and services, and to determine the number, location and operation of departments, divisions, and all other units of the Company.
- (f) To introduce new or improved technology, machines, tools, equipment, property, research, service, maintenance methods, and materials used to increase efficiency, to hire, promote, assign, transfer, demote, discipline and discharge for just cause.
- (g) To issue, amend and revise policies, rules, regulations, and practices including standards of performance; to take whatever action is either necessary or advisable to determine, manage and fulfill the mission of the Company and to direct the Company's employees; to determine the existence or nonexistence of facts which are the basis of management decision, and to carry out the lawful directives of the customers to whom the Company contracts its services.

ARTICLE 5—REPRESENTATIVES' RIGHTS

5.1—Recognition of Shop Stewards

From among the employees employed in the bargaining unit, the Union may designate and the Company will recognize one (1) Chief Shop Steward and not more than two (2) Alternate Stewards to serve as the Union's agent in the representation of employees in the bargaining unit. The Company will not be required to recognize any employee as a Shop Steward unless the Union has informed the Company, in writing, of the employee's name. The Union reserves the right to remove any shop steward for the betterment of the Union.

5.2—Duties of Shop Stewards

The authority of the chief shop steward and/or alternate so designated by the Union shall be limited to, and shall not exceed the following duties and activities:

1. The investigation and presentation of grievances with his Employer or the designated Company representative in accordance with the provisions of the collective bargaining agreement.

2. The transmission of such messages and information, which shall originate with and are authorized by the Union or its officers, provided such messages and information;

(a) Have been reduced to writing or

(b) If not reduced to writing, are of routine nature and do not involve work stoppage, slowdowns, refusal to handle services, or any other interference with the Employer's business.

3. The Chief Shop Steward and /or Alternate have no authority to take a strike action, or action interrupting the Employer's business, except as authorized by Official action of the Union. The Employer recognizes these limitations upon the stewards and shall not hold the Union liable for any unauthorized acts. The Employer in so recognizing such limitations shall have the authority to impose proper discipline, including discharge, in the event the chief shop steward or alternate has taken strike action, slowdown or work stoppage in violation of the Agreement.

4. Stewards shall be permitted reasonable time to investigate, present and process grievances on the Company property without loss of time or pay during their regular working hours. Such time spent in handling of grievances during the Steward's regular working hours shall be considered working hours in computing weekly overtime if within the regular schedule of the Steward.

5. The Chief Steward shall be granted super seniority for all purposes, including lay-off, rehire, and job bidding where qualified.

5.3-New Member Orientation

The Company will make available to the designated Union representative(s) an opportunity to introduce themselves, explain the responsibilities of the stewards, and provide a brief history and overview of Local 707 to newly hired employees for a maximum of 30 minutes. The new member orientation will occur during the initial training period for new employees. The actual time and place for such orientation will be mutually agreed upon by the Company and the Union.

5.4-Union Visitation

Upon giving reasonable notice to the Company, the Union will be allowed access to Company premises for the purpose of investigating or adjusting an actual grievance, or visiting the members in order to ensure the terms of this Agreement are being upheld. The Union agent will confine any conversations with employees to non-work time and his activities will not in any manner interfere with the performance of work by the employee.

ARTICLE 6-BULLETIN BOARDS

6.1-Union Business

The Company agrees to provide space for bulletin boards for employees covered by this Agreement. The Union-supplied bulletin board is for the Union's exclusive use where notices pertaining to meetings, social events and information of general interest to Union members may be posted. Nothing will be posted that disparages the Company, the Union, the client or any other person or employee. All postings must be printed on official Union letterhead and signed by an officer of the Local. The Company shall also allow any official postings as mandated and prescribed by any government agency.

6.2-Indemnification

The Union indemnifies and will hold the Company harmless against any and all claims, suits, demands, charges, complaints or other causes of action for items that are posted on the bulletin boards.

ARTICLE 7-COMPLIANCE WITH LAW

It is understood and agreed that the Union will comply with the provisions of applicable law pertaining to elections and that any provision of this Agreement, the legality of which depends upon an election, will not be effective until authorized in such election or until full compliance with the law is accomplished.

ARTICLE 8-AFFIRMATIVE ACTION

Section 8.1-Equal Opportunity

The Company and the Union recognize a common commitment to the equality of opportunity for all. Therefore, the Company and the Union agree that neither will discriminate against any employee with respect to hiring, compensation or terms

or conditions of employment because of such individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, disability or Vietnam Era veteran status, or any other status protected by law.

Section 8.2-Gender

Whenever either the masculine or feminine gender is used in this Agreement, it is intended to include the opposite gender as well.

ARTICLE 9-NO STRIKE, NO LOCKOUT

Section 9.1-Disputes

It is recognized and understood that the Company and its workers are obligated to perform essential public service, and that this service must be continuously performed to the fullest extent. The grievance and arbitration re-dress procedure shall be the sole and exclusive means for settling any dispute arising under this Agreement between the workers of the Union and the Company during the term of this Agreement.

Section 9.2-No Strikes

The Union agrees during the term of this Agreement that it will not engage in, encourage or condone any strike, slow-down, boycott, interference or interruption of production or service – especially in cases where such services include medical emergencies or delivery of patients to health care providers. The Union shall take all affirmative action to prevent or stop any such strikes, slow-downs, walkouts, or other interference with work, and all employees are required to cross picket lines and report to work. Any employee that refuses to cross any such picket line and not report to work or violates the provisions of this Article in any way, may be disciplined by the Company up to and including discharge. The Company will use all available legal means in the event of a wildcat strike or a labor disruption violating this agreement.

Section 9.3-Lockouts

During the term of this Agreement, or any extension thereof there will be no lockouts by the Company.

ARTICLE 10-DISCIPLINE

Section 10.1-Disciplinary Procedures

- (a) All disciplinary processes will be performed by a General Manager, Operations Manager or Regional Vice President, or their management designee. The Company agrees to be fully compliant with employee's representational rights under the Weingarten decision. The charged employee shall be given the opportunity to attend all hearings, which may result in disciplinary action. A Union representative may also attend the hearing, if so requested by the employee.

- (b) The respective General Manager, to whom the individual is requested to report, shall give a fair and impartial hearing to all employees. This shall also include corrective interviews, through the disciplinary process. Stewards will be notified in a timely manner of any suspensions or pending terminations.
- (c) A copy of bargaining member's disciplinary actions shall be given to the employee. The shop steward and the Local Union shall also be given copies of discipline within ten (10) business days of the issuance of said discipline.
- (d) Initial discipline shall occur within fourteen (14) business days of the Company's knowledge of an alleged infraction / incident. The Company will notify the union if an investigation will last longer than fourteen (14) business days to complete.
- (e) Disciplinary action taken by the Company according to the terms of this Section are subject to the grievance procedure contained herein.

Section 10.2-Progressive Discipline

Any violation of posted and/or written Company rules, policies and/or procedures may, at the Company's discretion, result in disciplinary action. With the exception of a violation of a serious infraction as listed in Section 10.4, Attendance Policy as listed in Section 10.5, or the Safety Policy as listed in 10.6, each infraction of any rule, policy or procedure may result in the following disciplinary action taken by the Company against the employee who violates any rule, policy or procedure:

First Violation:	Policy review / documented verbal counseling.
Second Violation:	First Written Warning Notice.
Third Violation:	Final Written Warning Notice.
Fourth Violation:	Dismissal From Employment With Company

The definition "first", "second", "third" and "fourth" violation above shall mean the violation of any rule or combination of rules and shall not be construed to mean the first, second and third violation of each individual rule exclusive of violation of any other rules. If an employee does not have a disciplinary violation for a period of twelve consecutive months, then the employees will have his record cleared. This policy is based on a floating twelve (12) month time period.

Section 10.3-Work Rules

The Company will issue all employees a current MV Employee Handbook outlining all rules, regulations and policies. Prior to the Implementation of any new or revised rule, regulation or policy in the Handbook, the Company will issue an addendum to the Employee Handbook, with a copy given to each employee and the Union, at least twenty (20) business days prior to the implementation of said rule, regulation or addendum. The Company shall have the sole exclusive right to adopt additional reasonable rules, regulations and policies to govern its operations and employees and, from time to time, to change or amend such rules, regulations and policies, to the extent they do not conflict with any express written provisions of this Agreement. The Company will notify the Union in writing of all changes in policy at least twenty (20) business days before they are implemented, unless required by client or safety concerns which demand a more immediate implementation. In the event any Company Rule conflicts with the terms of this Agreement - this Agreement shall prevail. Any change to rules and regulations shall be posted and distributed to all employees in order to uniformly advise all bargaining unit members.

Prior to implementation, the Union may request to meet with the Company to discuss the intent and purpose of any new rule or regulation. Disagreements concerning the implementation of any Company Rule conflicting with the terms of this Agreement is subject to the grievance procedure contained in this Agreement. If the Union fails to file a grievance within fourteen (14) business days after implementation, the new rule, regulation or work-related policy change will stand as implemented.

Section 10.4-Serious Infractions

The following violations of Company policies and rules are considered Serious Infractions and shall be just cause for immediate discharge of the employee:

- (a) Theft or deliberate destruction, defacing or damaging of Company or Client property or property of another employee or passenger.
- (b) Physical violence or fighting on Company premises or vehicles or any time while on duty.
- (c) Possession of firearms, weapons, or explosives, and similar devices on Company premises or vehicles or any time while on duty.
- (d) Threatening, intimidating, coercing or abusing fellow employees, passengers, customers or members of the public.
- (e) Conviction of a misdemeanor law while on duty. Conviction of a felony whether on or off duty either before or during employment.

- (f) Use of language or any another activity designed to create a hostile work environment or to offend or harass any other employee, customer or passenger based on that employee's, customers or passenger's race, color, religion, sex, age, national origin, marital status, sexual orientation, disability or Vietnam Era veteran status, marital status or any other status protected by law.
- (g) Failure for any reason to maintain a valid driver's license and all other certificates required by Federal, State or local law or regulation to operate the Company's vehicles. In the event the employee notifies the Company of a temporary loss of the required license or certification, the employee shall be first entitled to an unpaid leave of absence of up to thirty (30) calendar days in order to correct said loss of a valid driver's license or other certificate required to operate the Company's vehicles. In the event the employee does not immediately notify the Company of any loss of license or certificate required to operate the vehicles, the employee may be terminated immediately.
- (h) Unauthorized touching, physical contact with or indecent exposure to a passenger or fellow employee.
- (i) Failure to properly secure using required tie down procedure, boarding belt and lap and shoulder restraints, any passenger in a wheelchair or other mobility assistance device.
- (j) The pickup of any unauthorized passenger or the drop off of any passenger, when such is required on the driver's manifest or when so instructed by the dispatcher, at any place without there being a physical handoff to a caregiver or other responsible adult at the destination or the pickup. (NOTE: This language (j) is only for Agreements that cover Paratransit operations.)
- (k) Reporting for work under the influence of intoxicating liquor or illegal drugs or violation of the Company's Drug and Alcohol Policy as contained in this Agreement.
- (l) Dishonesty, including but not limited to, knowingly falsifying of any document including employment applications, time records, manifests or any other document.
- (m) Failure to report a hazardous situation, accident or injury immediately or, at first opportunity to the dispatcher or supervisor. For purposes of this Section, a "hazardous situation" includes, but is not limited strictly to, a bio-hazard such as blood or other body fluid being present on the Company vehicle.

- (n) Selling any product or propositioning a sale of any product or service to a passenger while in revenue service.
- (o) Gross insubordination or refusal to perform assigned work.
- (p) Conviction of, whether in Company or any other motor vehicle, a serious traffic violation, including DUI, vehicular manslaughter, reckless driving or any driving offense involving alcohol or drugs.

Section 10.5-Attendance

The Attendance Policy outlined in the Employee Handbook will be utilized and followed for any and all attendance violations/disciplines.

Section 10.6-Safety Policy

Because our clients rely upon MV Transportation for qualified, well trained and safe drivers, a good safety record on the part of our drivers is essential for us to serve our clients in the safe professional manner that they expect. It is the policy of MV Transportation that safety and accident prevention shall be considered of primary importance in all phases of operations and administration. The Employee Handbook describes the Safety Point System and the other rules and procedures regarding safety. The Safety and Incident Policies as detailed in the MV Employee Handbook, including the Safety Point System, are the agreed upon safety policies in effect for this Agreement.

Section 10.7-Safe Vehicles

No employee shall be disciplined for refusing to drive an unsafe vehicle, *violate city, state or federal safety laws*, nor shall any employee be required to drive a bus that has not been determined by the maintenance department to be safe, nor shall any employee be required to transport a passenger in a mobility assistance device unless the proper number of securement straps or devices, as determined by the Company, are provided in the vehicle.

ARTICLE 11-GRIEVANCE PROCEDURE

Section 11.1-Definition

A grievance is a claim that the Company has violated an express, specific provision of this Agreement. In the event such a claim is made, the following procedures must be followed:

Section 11.2-Filing a Grievance

The grievance must set forth the nature, details, date of the alleged violation, and Article and Section of this Agreement claimed to have been violated. The written grievance must be presented by the employee or the Union to the General Manager or his designee within fifteen (15) business days following the occurrence out of which the grievance arose. Failure to present the grievance within fifteen (15) business days will be deemed a waiver of the grievance.

STEP 1

Such grievance will be presented in writing to the General Manager, or his designee. Within ten (10) business days of receipt of the grievance, a meeting will be scheduled between the employee, the shop steward, and the General Manager. A representative of the Union shall accompany the employee, if requested. If the General Manager or his designee and the grievant are unable to arrive at a satisfactory settlement during the meeting, the General Manager or his designee will provide a written answer to the Union within seven (7) business days after the date of the meeting.

STEP 2

If the grievance is not resolved in Step 1, the Union must refer the grievance in writing to the Company Director of Labor Relations, or his designee within ten (10) business days after receipt of the Step 1 decision. Failure of the Union to request Step 2 within the ten calendar days shall constitute a waiver of the grievance. Upon receipt of the written Step 2 grievance:

- (a) The Director of Labor Relations, or his designee, and a representative of the Union will meet in person or via conference call within ten (10) business days after the receipt of the referral. The grievant will be invited to participate in this Step 2 hearing.
- (b) If the parties are unable to arrive at a satisfactory settlement during the meeting, within ten (10) business days of the meeting the Director of Labor Relations, or his designee, will provide a written answer to the Union.

STEP 3

If the grievance has not been settled in Step 1 or Step 2, the Union may, within ten (10) business days of receipt of the Company's Step 2 decision, submit the grievance to an arbitrator. Failure of the Union to request arbitration within the ten calendar days of the Company's Step 2 response shall constitute a waiver of the grievance by the Union and the employee.

Section 11.3--Expedited Procedure

The Company and the Union may agree to submit the grievance to an expedited arbitration process subject to the following conditions:

- (a) Both parties must mutually agree to expedited arbitration to resolve a specific grievance, and legal counsel will not be used as advocates.

- (b) The hearing will be informal
- (c) No briefs will be filed
- (d) Formal rules of evidence will not be strictly followed.
- (e) The arbitrator may issue a bench decision at the conclusion of each hearing, but in any event will render a decision within 48 hours after the conclusion of each hearing
- (f) The arbitrator's decision will be based on the record before the arbitrator, and may include a brief written explanation of the basis for such conclusion
- (g) The arbitrator's decision will be final and binding upon the parties. An arbitrator who issues a bench decision will furnish a written copy of the award to the parties within forty-eight (48) hours of the close of the hearing
- (h) No decision by an arbitrator in this expedited process will be deemed to establish practice or any precedent for future proceedings
- (i) The fees of the arbitrator will be borne equally by both parties
- (j) No decision by an arbitrator in the expedited process will be deemed to establish practice or any precedent for future proceedings.

Section 11.4—Arbitrator Selection

If the expedited arbitration procedure is not selected by the parties, the Company and Union will mutually select an arbitrator from a list of seven (7) qualified arbitrators provided by the Federal Mediation and Conciliation Service. This selection will be completed within ten (10) business days, if possible. The decision of the impartial arbitrator will be final and binding on the parties hereto. The fee, if any, of the impartial arbitrator will be borne equally by the parties hereto. All other mutually agreed to expenses of arbitration, excluding legal fees, are to be divided equally between the parties hereto. The arbitrator shall have no power to add to, subtract from or modify any provision of this Agreement, nor shall the arbitrator have the power to order the Company to do anything that will cause the Company to violate any provision of its Agreement with the client.

ARTICLE 12—CATEGORIES OF EMPLOYEES

Section 12.1—Regular Full-Time

Employees whose regular scheduled bid is at least thirty-five (35) hours in a workweek shall be classified as Regular Full-Time.

Section 12.2—Regular Part-Time

Employees whose regular scheduled bid is less than 35 hours in a workweek shall be classified as Regular Part-Time.

Section 12.3—Part-Time Casual

Part-time employees who are regularly scheduled to work less than 35 hours per work week, and who do not have a regular bid assignment, or who work on an irregular basis throughout the year or work weekend only shifts shall be classified as Part-Time Casual.

Section 12.4—Classification Change

Part-time employees may be required to work more than thirty-five (35) hours in a workweek to meet unusually high service demands or other unusual situations. Nothing in this Agreement shall be construed as a guarantee of hours.

ARTICLE 13—HOURS OF WORK & PAY

Section 13.1—Pre-trip Duties

Employees are required to perform various pre-trip duties prior to departure from the facility when their trip starts from the garage. The Company will pay twelve (12) minutes for performing the required pre-trip duties. When performing a relief, the Operator will perform a safety walk around inspection when taking over the vehicle, and then a vehicle inspection at subsequent layover points with time required to be included in the schedule. Employees will not be paid any time for clocking in prior to his scheduled time unless instructed to do so by a supervisor.

Section 13.2—Post-trip Duties

An operator's paid time ends after their last trip is performed and the vehicle is refueled, returned to the yard and the post-trip is completed

Section 13.3—Workweek

The workweek shall begin at 12:01 AM on Saturday and shall end at Midnight Friday. Employees shall be paid every two weeks, with paydays on alternate Fridays.

Section 13.4—Overtime

Unless otherwise stated in this Agreement, time and one half shall be paid for all hours actually worked in excess of 40 hours per week, or in accordance with applicable local, state or federal law.

ARTICLE 14-SENIORITY

Section 14.1-Definition

Seniority is defined as the length of time an employee has been continuously employed by the Company since the date of his most recent employment by the Company. The Company will recognize seniority rights from the employee's first day of work. If more than one employee begins work on the same day, the employee with the earliest date on their application will have the highest seniority. When these same employees also share the same application date, then the employee with the earliest time and date of their drug screen will have the higher seniority.

Section 14.2-Layoff

When a reduction in the workforce becomes necessary, such layoff will be made in the reverse order of seniority. Likewise, the employee with the most seniority will be the first one recalled from layoff.

Section 14.3-Use

Seniority will commence with the date of employment. Seniority will be observed with regard to all layoffs, rehiring, job bids, vacation, scheduling. The Company and the Union will have the authority to determine seniority dates for employees in the unit and to resolve conflicts among employees as to seniority dates.

Section 14.4-Continuous Service

Unless otherwise stated, wherever reference is made to "continuous service" in this Agreement, shall be interpreted to mean employment without a break with the Company, or with a predecessor employer, when such predecessor employer serves as a contractor to the client. "Seniority" is defined as continuous service with the Company, or its predecessors, under contract with the client for purposes of determining wages, vacation accrual and classification seniority.

Section 14.5-Seniority List

Within 30 days after the signing of this Agreement, and quarterly thereafter, a list of employees arranged in the order of their seniority will be posted in a conspicuous place at the place of employment. One seniority roster will be maintained for all employees. A Union representative will be provided a current seniority list. The Union will immediately notify Company of any errors in the seniority list.

Section 14.6-Probationary Period

All employees will be on probation until they have completed ninety (90) calendar days of service from the completion of training with the Company. Until completion of said probationary period, an employee may be terminated at the complete discretion of the Company, and such termination will not be subject to the grievance provisions of this Agreement.

Section 14.7—Seniority Broken

Continuity of service will be broken and seniority will terminate by:

- (a) Resignation
- (b) Discharge for just cause.
- (c) Failure to return to work from layoff within thirty (30) business days when called.
- (d) Absence without leave or communicating with the Company for three (3) consecutive scheduled work days.
- (e) Layoff of twelve (12) months or more.
- (f) Promotion out of the bargaining unit for a period in excess of six (6) months.

Section 14.8—Seniority Not Broken

Continuity of service will not be broken and seniority will not terminate by:

- (a) Authorized leave of absence.
- (b) Leave of absence to serve in the Armed Forces of the United States, as provided by law.
- (c) Absence due to authorized vacation or other PTO.
- (d) Absence due to sickness while such sickness continues, but not to exceed twelve (12) months unless extended by the Company and the Union.

ARTICLE 15—BIDDING

Section 15.1-Procedure

The Company shall conduct General Bids at least 2 times each year, at a time determined by the Company or as required due to changes in demand for the service. The General Bid shall be posted at least seven (7) business days prior to bidding with a copy sent to the Local Union, when possible. Posted runs shall show the approximate start and the approximate end times of the shift.

Section 15.2

Operators shall bid in seniority order as quickly as reasonably possible (three minutes maximum), so as not to hold up the bidding process. If an operator is unable to bid, a union representative shall make his/her selection. Employees may leave a list of proxies with the Company and the Union prior to the bid.

Section 15.3

Employees absent due to illness or injury of the employee will be permitted to bid if the bus operator has a release from a physician to return to unrestricted duty no later than the date the new bid becomes effective.

Section 15.4

A bid shall not be construed to mean that this is a minimum of maximum time the employee will work. Employees shall be required to call the evening prior to their scheduled work shift to obtain their actual starting time for the next day's work. The actual start time may vary from the bid time due to the demand of the system. During the work day, the number of trips or the circumstances of system demand, cancellations or add-ons may result in the end time of the shift being before or after the scheduled time. (NOTE: This Section applies only to operations that perform Paratransit services.)

Section 15.5-Split Shifts

Split shifts may be designed based on the needs of the operation or requirements of the Client. Time in between split shifts shall be unpaid.

ARTICLE 16-DRUG AND ALCOHOL PROGRAM

Employees will comply with MV Transportation's Substance Abuse and Alcohol Misuse Policy and Procedures as referenced in the Employee Handbook. Any changes to this policy will be presented to the Union a minimum of 14 business days prior to implementation.

ARTICLE 17-BREAKS & LUNCHES

Section 17.1- Scheduled Breaks

The following will apply to scheduled lunch breaks, for all full time or part time employees, as it applies to the schedules they bid and hours they work:

Employees who work up to eight (8) to ten (10) continuous hours will have no more than one (1) hour of break time deducted.

Employees who work ten (10) to twelve (12) continuous hours will have no more than one and one half (1 ½) hours of break time deducted.

Employees who work over twelve (12) continuous hours will have no more than two (2) hours of break time deducted.

There is no paid travel time for lunch. Lunches begin at the last drop prior to lunch and end at the first pickup after lunch. Employees must take lunch as required up to the maximum amount stated herein.

ARTICLE 18 - HOLIDAYS

Section 18.1---Holidays

Paid named holidays for full time employees with more than six (6) months of MV service shall be as follows;

1. New Years Day
2. Martin Luther King Day
3. Memorial Day
4. The Fourth of July
5. Labor Day
6. Thanksgiving Day
7. Christmas Day

Section 18.2 --Sick Days

Two (2) paid sick days for full time employees with more than twenty-four (24) months of continuous service with MV. The employee must request a sick day 48 hours in advance. Sick days are paid at the employee's straight regular service rate and will be based on the employee's regularly scheduled shift but not more than eight (8) hours. Sick Days may not be carried over to the following year.

Section 18.3---Holiday Pay

Holiday pay shall be calculated at the employee's straight time regular service rate and will be based on the employee's regularly scheduled shift but not more than eight (8) hours. If the holiday falls on an employee's normally scheduled day off then the holiday will be paid at eight hours. Holiday pay and Personal Days shall not be counted as hours worked for the purposes of computing overtime.

Section 18.4---Eligibility

In order to be eligible for holiday pay, an employee must be in active pay status and have completed one year of continuous full time employment, and must report for work and complete their shift on both their last scheduled working day immediately preceding the holiday and on their first scheduled working day following the holiday. Unless the employee so reports, he/she shall receive no pay for such holiday. If an employee receives written approval by a Company Supervisor for time off on the days before or after the holiday, then for purposes of this section, their "regular" work day will be adjusted forward or backward to their next scheduled work day.

Section 18.5---Work on Holidays

For those employees who are scheduled to work on a recognized holiday, they must work as scheduled. If a holiday has a modify work schedule then a sign up list shall be posted for employees to indicate their desire to work; selection for work shall first be made on basis of seniority. In the event an insufficient number

of employees sign up, then work on the holiday shall be assigned in reverse seniority order of those who are scheduled to work on the holiday. Employees who work on the day a holiday is observed shall receive their regular rate of pay that day plus holiday pay at straight time rate if eligible.

ARTICLE 19 - VACATION

All full time Employees shall accrue hour per pay period for every pay period they work a minimum of 70 hours. Hours included to reach the 70 hours include regular work hours, paid vacation time, paid holiday time. Hours are accrued based on the following schedule:

Hire – 6 months	No accrual
After 6 months	1.5385 hours per pay period
After 5 ½ (66 months)	3.077 hours per pay period

Employees stop accruing Vacation after a total of 120 hours until balance drops below 120 hours.

Section 19.1—Vacation Schedule

Employees shall bid by seniority in the month of November of each year for the following year. There cannot be more than three employees on vacation in any given week.

Section 19.2—Vacation Selection

Employees who have earned vacation may select vacation to be taken in full week increments or one day at a time.

Section 19.3—Vacation Pay

Vacation must be taken in full day increments. The vacation may not be taken prior to being earned or within the first year of employment

Section 19.4 —Carry Over

Employee may carry over unused vacation to the following year but stop accruing vacation after a total of 120 hours until the balance drops below 120 hours.

ARTICLE 20 - LIFE INSURANCE

Section 20.1—Life Insurance Plan

MV will provide \$5,000 in life insurance at no cost to all full time employees.

ARTICLE 21 - SAFETY AND ATTENDANCE INCENTIVE

Section 21.1—Annual Safety Incentive

All drivers who operate vehicles with no chargeable accidents or unsafe acts within a one year period shall be paid \$200 as a safety incentive during the month following their employment anniversary.

Section 21.2—Annual Attendance Incentive

All drivers who have 12 months of perfect attendance (no chargeable attendance points based upon the Company's Attendance Policy) will receive \$200 per year each 12 months of perfect attendance.

ARTICLE 22 WAGES

<u>Length of service</u>	<u>Driver rate per hour</u>
Start (in revenue service)	\$11.00
After 90 days	\$12.00
1 year	\$12.50
2 year	\$13.00—
3 year	\$14.00
4 year	\$15.00
5 year	\$16.00

Upon ratification drivers will move to the above wage scale based upon their years of service with the Company. If the driver is at the rate on the scale at the time of ratification, they will receive a 3% increase and then move to the next rate on the scale on their next anniversary.

The Company may vary the starting rate for drivers with experience.

Wage increases are effective the first day of the pay period following the employee's anniversary date with MV Transportation.

Drivers at the 5 year rate will receive 2.5% increase on the employee's anniversary date each year of the contract.

Upon written notification to the Union the Company may adjust the above wage scale in order to attract future employees and remain properly staffed.

BTW: A 50 cents premium will be paid for all hours worked when performing work as a BTW operator.

Vehicle Maintenance**Mechanic Wages**

Mechanic A \$17.00/hr

Mechanic B \$15.00/hr

Mechanic C \$13.50/hr

Utility \$10.00/hr

Maintenance employees will receive 2.5% increase on their hire date anniversary each year of the contract.

The Company will determine the qualifications of the Mechanic pay grades. These rates are starting rates for Maintenance employees. The company may adjust these rates based upon the needs of the business after notifying the union.

Mechanics A, B and C will receive \$150 tool allowance on the employees hire date anniversary each year of the contract.

ARTICLE 22 - 401(k) Plan**Section 22.1 401(k) Plan**

After 12 months of employment employees will be eligible to participate in the Companies 401 (k) plan.

For employees with 1 or more years' seniority with MV, the employer will match employee contributions at a ratio of 1:2 (one Employer dollar for every two employee dollars), with a max of \$520 annually for the Employer.

ARTICLE 23 - HEALTH INSURANCE**Section 23.1—Provision**

Group Insurance (Medical, Dental and Vision) is offered to all full time hourly employees. Example: an Employee is hired January 15. After ninety (90) days of employment, the Employee elects to be covered under the Road Carriers Local 707 Welfare Fund. Contributions to the fund must be made for the month of May and coverage will then commence June 1st. The Company shall contribute \$100.00 per month towards the monthly premium following 12 months of full time continuous employment. After 24 months the Company will contribute \$200.00 per month. The employee is to pay the difference between the total premium for the plan and the amount paid by the Company.

The composite rate for Plan H is \$294.00 for single or family coverage.

The rates in the future years may be increased a maximum of 12.5% per year.

Open enrollment to the Road Carriers Local 707 Welfare Plans will be held during the month of February 2009. Thereafter, open enrollment will be held for a period of one month commencing on February 1 of each year.

In the event the Employee elects not to receive health insurance coverage, the Employer shall not be required to contribute any amount toward the provision of health insurance coverage for the Employee.

ARTICLE 24- UNIFORMS

Each operator who has successfully completed training will be provided with three (3) uniform shirts and two (2) uniform pants, replacement shirts and pants as determined by the company. When an operator leaves employment of the Company, they must return the uniforms and all other Company – provided materials and may be charged the value of items not returned.

ARTICLE 25 – COMPLETE AGREEMENT

Section 25.1-Sole Agreement

This Agreement constitutes the sole and entire existing Agreement between the parties and supersedes all prior agreements, commitments and practices, whether oral or written, between the Company and the Union and between the Company and any of its employees covered by this Agreement, and expresses all obligations of and restrictions imposed on the Company.

Section 25.2-Waiver of Bargaining During Term

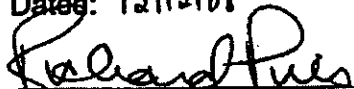
Notwithstanding any provision of this Agreement, the parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties are set forth in this Agreement. Therefore, the Company and the Union each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated and signed this Agreement. This Section shall not prevent the parties from meeting on and resolving issues that arise during the term of this Agreement.

ARTICLE 26 TERM OF AGREEMENT

This Agreement shall be binding upon the parties hereto, and shall be effective upon ratification and shall remain in effect until midnight, December 31 2013, except as changes, amendments or supplements may be mutually agreed during its term and reduced to writing. This Agreement shall be automatically renewed from year-to-year thereafter, unless either party gives written notice of a desire to modify, amend or terminate same at least 60 calendar days prior to the expiration date or any anniversary date thereof.

For the Company:

Dated: 12/12/08



Richard Pires Director of Labor Relations

For the Union

Dated: 12-12-08



Kevin McCaffrey President

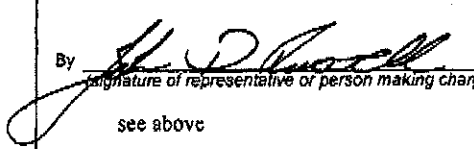
EXHIBIT F

FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

WRITE IN THIS SPACE	
Case 29-CA-29530	Date Filed 3/31/2009

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer MV Public Transportation	b. Tel. No. (707)863-8980
	c. Cell No. () -
	f. Fax No. (707)863-8944
d. Address (Street, city, state, and ZIP code) 900 South Avenue, Suite 205 Staten Island NY 10314-	e. Employer Representative John Duncan
	g. e-Mail
	h. Number of workers employed 175
i. Type of Establishment (factory, mine, wholesaler, etc.) Transportation company	j. Identify principal product or service Paratransit Services
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (2) and (3) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) On or about a date within the last six months, the above-named Employer unlawfully recognized Local 707, International Brotherhood of Teamsters (the Union) as the collective bargaining representative of its drivers, mechanics and utility workers employed out of the 900 South Avenue, Staten Island, New York location, and entered into a collective bargaining agreement covering those employees. On or about a date within the last six months, the above-named Employer required employees as a condition of employment to sign Union membership cards at a time when the Union did not represent a majority of its employees. On or about a date within the last six months, the above-named Employer unlawfully assisted the Union.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) John D. Russell	
4c. Address (Street and number, city, state, and ZIP code) 667 Quincy Avenue Staten Island NY 10305-	4a. Tel. No. (718)351-5122 4b. Cell No. () - 4d. Fax No. () - 4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By  John D. Russell (signature of representative or person making charge) (Print/Type name and title or office, if any) see above 03/31/2009 Address _____ (date)	
Tel. No. (718)351-5122 Office, if any, Cell No. () - Fax No. () - e-Mail	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

29-2009-0651

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT G

4:58pm From-

1-000 P.003/003 P.116

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**

DO NOT WRITE IN THIS SPACE

29-CA-29544

Date Filed

4/9/2009

INSTRUCTIONS:

File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer MV Public Transportation, Inc., MV Transportation, Inc., MV TransIt, Inc.	b. Number of Workers Employed @185
c. Address (street, city, state, ZIP Code) 900 South Avenue, Suite 205 Staten Island, New York 10314	d. Employer Representative John Duncan
e. Telephone No. (707) 883-8980	f. Fax No. (707) 883-8944
g. Type of Establishment (factory, mine, wholesaler, etc.) Transportation Company	h. Identify Principal Product or Service Paratransit services

i. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a), subsections (1) and (2) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

The above-named Employers unlawfully recognized Local 707, International Brotherhood of Teamsters as the collective bargaining representative of drivers, mechanics, and utility workers employed out of the 900 South Avenue, Staten Island, New York location, and entered into a collective bargaining agreement covering those employees.

Within the last six months, the above-named Employers required employees as a condition of employment to sign Union membership applications.

Within the last six months, the above-named Employers provided unlawful assistance and support to the Union.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Local 1181-1061, Amalgamated Transit Union, AFL-CIO

4a. Address (street and number, city, state, and ZIP Code)
101-49 Woodhaven Boulevard
Ozone Park, New York 11416

4b. Telephone No.
(718) 848-5800
Fax No. (718) 641-1541

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filed in when charge is filed by a labor organization)
Amalgamated Transit Union, AFL-CIO

E. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By Dominick Agata Dominick Agata
(Signature of representative or person making charge)
Local 1181-1061, Amalgamated Transit Union, AFL-CIO
Address 101-49 Woodhaven Boulevard
Ozone Park, New York 11416

Organizer
(Title, if any)
Fax No. (718) 841-1541
(718) 845-5600 April 8, 2009
(Telephone No.) Date

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
2002 © American LaborNet, Inc.

2009 APR -9 A 7:01
BROOKLYN, NY
NLRB - REGION 29
RECEIVED

EXHIBIT H



United States Government

NATIONAL LABOR RELATIONS BOARD
Region 29
Two MetroTech Center, Fifth Floor
Brooklyn, New York 11201-3838
(718) 330-7713

July 24, 2009

Dominick Agate
Local 1181-1061, Amalgamated Transit
Union, AFL-CIO
101-49 Woodhaven Boulevard
Ozone Park, N.Y. 11416

Re: MV Public Transportation, Inc., MV
Transportation, Inc. & MV Transit, Inc.
Case No. 29-CA-29544

Dear Mr. Agate:

The Region has carefully investigated and considered your charge against MV Public Transportation, Inc., MV Transportation, Inc., & MV Transit, Inc., herein called the Employer, alleging violations under Section 8 of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted with respect to the portion of your charge which alleges that the Employer unlawfully recognized Local 707, International Brotherhood of Teamsters, herein called the Union, as the collective bargaining representative of the drivers, mechanics and utility workers employed at the Employer's 900 South Avenue, Staten Island, New York location, and entered into a collective bargaining agreement with the Union covering those employees, which contains a union security clause. I am dismissing that portion of your charge.

The remaining portions of your charge, which allege that: 1. the Employer required employees as a condition of employment to sign Union membership applications, Union authorization cards, and/or dues check-off authorizations, and 2. the Employer provided unlawful assistance and support to the Union, are being processed further.

Your Right to Appeal: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the General Counsel of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, you are encouraged to submit a complete statement setting forth the facts and reasons why you believe that the decision to dismiss your charge was incorrect.

RECEIVED

JUL 28 2009

The appeal may be filed by regular mail addressed to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. A copy of the appeal should also be mailed to the Regional Director.

An appeal may also be filed electronically by using the E-filing system on the Agency's Website. In order to file an appeal electronically, please go to the Agency's Website at www.nlrb.gov and select the **E-Gov** tab and click on **E-Filing**. Scroll to the *General Counsel's Office of Appeals*. Select the type of document you wish to file electronically and you will navigate to detailed instructions on how to file an appeal electronically. The appeal MAY NOT be filed by facsimile transmission.

Appeal Due Date: The appeal must be received by the General Counsel in Washington, D.C., by the close of business at 5:00 PM EST/EDT on **Friday, August 7, 2009**. If you mail the appeal, it will be considered timely filed if it is postmarked no later than one day before the due date set forth above. If you file the appeal electronically it will be considered timely filed if the transmission of the entire document through the Agency's website is accomplished **no later than 11:59 p.m. Eastern Time** on the due date.

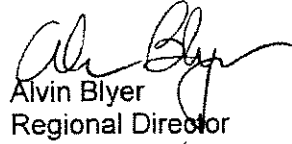
Extension of Time to File Appeal: Upon good cause shown, the General Counsel, may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (202) 273-4283. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate. While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extension of time. A request for an extension of time to file an appeal **must be received on or before the original appeal due date**. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and 7(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

Notice to Other Parties of Appeal: You should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is mailed to the General Counsel, please complete the enclosed Appeal Form (NLRB-4767) and send

one copy of the form to all parties whose names and addresses are set forth in this letter.

Very truly yours,


Alvin Blyer
Regional Director

Enclosure: Appeal forms
cc:

General Counsel, Office of Appeals
National Labor Relations Board
1099 14th Street, N.W.
Washington D.C. 20570-0001

Richard Brook, Esq.
Meyer, Suozzi, English & Klein, P.C.
1350 Broadway, Suite 501
New York, N.Y. 10018-0026

Richard Pires
MV Public Transportation, Inc.
900 South Avenue, Suite 205
Staten Island, N.Y. 10031

H. Tor Christensen, Esq.
Littler Mendelson, P.C.
1150 17th Street, N.W.
Suite 900
Washington, D.C. 20036

EXHIBIT I



United States Government

NATIONAL LABOR RELATIONS BOARD
Region 29
Two Tech Center North
Brooklyn, New York 11201
(718-330-7713)

October 14, 2009

Via U.S. Mail and Facsimile

George Kirschenbaum, Esq.
Cary Kane LLP
1350 Broadway, Suite 815
New York, NY 10018
(Fax/(212) 868-6302)

H. Tor Christensen, Esq.
Littler Mendelson, P.C.
1150 17th Street, N.W., Ste. 900
Washington, D.C. 20036
(Fax/(202) 842-0011)

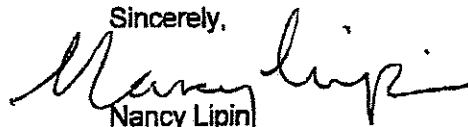
John D. Russell
667 Quincy Avenue
Staten Island, N.Y. 10314

Re: MV Public Transportation & Local 707, Teamsters
Case Nos. 29-UD-298/29-RD-1137

Dear Sirs:

As you know, the enclosed UD and RD petitions have been filed in the above-referenced matters. With respect to the UD petition, please submit to the Region your position, with supporting argument, on the issue of whether a valid UD election can be conducted while the Consolidated Complaint in Case Nos. 29-CA-29530, 29-CA-29760, 29-CA-29544, 29-CA-29619 and 29-CB-13981 is pending. Please submit your position by no later than the close of business on Monday, October 19, 2009.

Sincerely,


Nancy Lipin
Board Attorney

Encl.

INTERNET
FORM NLRB-502
(2-08)UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
PETITION

FORM EXEMPT UNDER 44 U.S.C.

DO NOT WRITE IN THIS SPACE

Case No.

29-UD-298

Date Filed

10/9/09

INSTRUCTIONS: Submit an original of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

The Petitioner alleges that the following circumstances exist and requests that the NLRB proceed under its proper authority pursuant to Section 9 of the NLRA.

1. PURPOSE OF THIS PETITION (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)
- ☐ RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.
- ☐ RM-REPRESENTATION (EMPLOYER PETITION) - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
- ☒ RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.
- ☒ UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.
- ☐ UC-UNIT CLARIFICATION - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one) ☐ In unit not previously certified. ☐ In unit previously certified in Case No. _____
- ☐ AC-AMENDMENT OF CERTIFICATION - Petitioner seeks amendment of certification issued in Case No. _____
- Attach statement describing the specific amendment sought.

2. Name of Employer MV Public Transportation, Inc.		Employer Representative to contact Quinto Rappacioli	Tel. No. 718-448-1994
3. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) 1963 Richmond Terrace, Staten Island, NY 10302		Fax No.	
4a. Type of Establishment (Factory, mine, wholesaler, etc.) PARA Transit Service Provider	4b. Identify principal product or service Transportation	Cell No.	e-Mail
5. Unit involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.) Included Excluded		6a. Number of Employees in Unit Present APPROX 220 Proposed (By UCAC)	
(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable)		6b. Is this petition supported by 30% or more of the employees in the unit? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No *Not applicable in RM, UC, and AC	

- 7a. ☐ Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state).
- 7b. ☐ Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (If none, so state.) Local 707 International Brotherhood of Teamsters		Affiliation	
Address 14 Front Street Hempstead, NY 11550		Tel. No. 516-486-7100	Date of Recognition or Certification
		Cell No. 516-486-7164	Fax No. 516-486-7164
		e-Mail	

9. Expiration Date of Current Contract, if any (Month, Day, Year)
December 31, 2013
10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day and Year)
December 12, 2008

- 11a. Is there now a strike or picketing of the Employer's establishment(s) involved? Yes ☐ No ☒
- 11b. If so, approximately how many employees are participating?

- 11c. The Employer has been picketed by or on behalf of (Insert Name) _____ Since (Month, Day, Year) _____ a labor organization, of (Insert Address) _____

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state)

Name	Address	Tel. No.	Fax No.
		Cell No.	e-Mail

13. Full name of party filing petition (If labor organization, give full name, including local name and number)
Union Employees of MV Public Transportation, Inc.

14a. Address (street and number, city, state, and ZIP code)	14b. Tel. No. EXT	14c. Fax No.
667 Quincy Avenue, Staten Island, NY 10305	718-351-5122	347-251-6177
	14d. Cell No.	14e. e-Mail

15. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (to be filled in when petition is filed by a labor organization)

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) JOHN D RUSSELL	Signature [Signature]	Title (if any) DRIVER
Address (street and number, city, state, and ZIP code) 667 Quincy Avenue, Staten Island, NY 10305		
Tel. No. 718-351-5122		Fax No.
Cell No. 347-251-6177		e-Mail

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001).

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

FORM EXEMPT UNDER 44 U.S.C.

INTERNET
FORM NLRB-502
(2-08)UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
PETITION

DO NOT WRITE IN THIS SPACE

Case No. 29-RD-1137 Date Filed 10/9/09

INSTRUCTIONS: Submit an original of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

The Petitioner alleges that the following circumstances exist and requests that the NLRB proceed under its proper authority pursuant to Section 9 of the NLRA.

1. PURPOSE OF THIS PETITION (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)
- ☐ RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.
- ☐ RM-REPRESENTATION (EMPLOYER PETITION) - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
- ☒ RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.
- ☒ UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.
- ☐ UC-UNIT CLARIFICATION - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one) ☐ In unit not previously certified. ☐ In unit previously certified in Case No. _____
- ☐ AC-AMENDMENT OF CERTIFICATION - Petitioner seeks amendment of certification issued in Case No. _____ Attach statement describing the specific amendment sought.

2. Name of Employer MV Public Transportation, Inc.		Employer Representative to contact Quinto Rappacioli	Tel. No. 718-448-1994
3. Address(es) of Establishment(s) involved (Street and number, city, state, ZIP code) 1963 Richmond Terrace, Staten Island, NY 10302		Fax No.	
4a. Type of Establishment (Factory, mine, wholesaler, etc.) PARA Transit Service Provider	4b. Identify principal product or service Transportation	Cell No.	e-Mail
5. Unit Involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.) Included Excluded		6a. Number of Employees in Unit: Present APPROX 220 Proposed (By UC/AC)	
(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable)		6b. Is this petition supported by 30% or more of the employees in the unit? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No *Not applicable in RM, UC, and AC	

7a. <input type="checkbox"/> Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state).	7b. <input type="checkbox"/> Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.		
8. Name of Recognized or Certified Bargaining Agent (If none, so state.) Local 707 International Brotherhood of Teamsters		Affiliation	
Address 14 Front Street Hempstead, NY 11550		Tel. No. 516-486-7100	Date of Recognition or Certification
		Cell No. 516-486-7164	Fax No. 516-486-7164
9. Expiration Date of Current Contract, if any (Month, Day, Year) December 31, 2013		10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day and Year) December 12, 2008	
11a. Is there now a strike or picketing at the Employer's establishment(s) involved? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		11b. If so, approximately how many employees are participating?	
11c. The Employer has been picketed by or on behalf of (Insert Name) _____, a labor organization, of (Insert Address) _____ Since (Month, Day, Year) _____			

12. Organizations or individuals other than Petitioner (and other than those named in Items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state)			
Name	Address	Tel. No.	Fax No.
		Cell No.	e-Mail
13. Full name of party filing petition (If labor organization, give full name, including local name and number) Union Employees of MV Public Transportation, Inc.			
14a. Address (street and number, city, state, and ZIP code)		14b. Tel. No. EXT	14c. Fax No.
		14d. Cell No.	14e. e-Mail
15. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (to be filled in when petition is filed by a labor organization)			
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) JOHN D RUSSELL	Signature <i>John D Russell</i>	Title (if any) DRIVER	
Address (street and number, city, state, and ZIP code) 667 Quincy Avenue, Staten Island, NY 10305		Tel. No. 718-351-5122	Fax No.
		Cell No. 347-251-6177	e-Mail

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT J



Littler Mendelson, P.C.
1150 17th Street N.W.
Suite 900
Washington, DC 20036

October 19, 2009

H. Tor Christensen
202.789.3406 direct
202.842.3400 main
202.842.0011 fax
tochristensen@littler.com

VIA FACSIMILE AND US MAIL

Nancy Lipin
Board Attorney
National Labor Relations Board
Region 29
2 Tech Center North
Brooklyn, NY 11201

**Re: MV Public Transportation, Inc.
Cases 29-UD-298
29-RD-1137**

Dear Ms. Lipin:

You have requested our position as to whether a valid UD election can be conducted while the Consolidated Complaint in Case Nos. 29-CA-29530, 29-CA-29760, 29-CA-29544, 29-CA-29619 and 29-CB-13981 is pending. It is the position of MV Public Transportation, Inc. that a valid UD election can not be conducted, nor can the RD election, until the various underlying Type II unfair labor practice charges are resolved.

The General Counsel has alleged that MV Public Transportations, Inc. (the "Company") and International Brotherhood of Teamsters Local 707 (the "Union") have committed various unfair labor practices, including violations of 8(a)(1), 8(a)(2), 8(a)(3) and 8(b)(1)(A). However, the Casehandling manual is clear that many of these charges are Type II charges, which preclude the processing of RD and UD petitions. It is similarly clear that the two types of petitions must be treated alike, and that "[t]o the extent relevant, the principles of these Sections should also be applied to situations involving UD petitions." Casehandling Manual §11730-11734 (discussing blocking ULPs).

The General Counsel has alleged numerous Type II charges, including "rendering unlawful assistance and support to a labor organization" which closely parallels the example in Casehandling Manual Section 11730.3(a) - where it was alleged that in the context of an 8(a)(2) charge, "employer representatives assisted in the showing of interest obtained by a labor organization." This was provided as an example of an instance when the petition should *not* be processed. Similarly, the questions concerning representation sought to be raised by John D. Russell's RD petition may not be processed pursuant to Casehandling Manual §11730.3(b) (an "8(a)(2) charge that seeks to disestablish a bargaining relationship imposes a condition upon the question concerning representation that the petition seeks to raise and

Nancy Lipin
Board Attorney
October 19, 2009
Page 2

must be resolved prior to processing the petition."'). Obviously, a petition seeking to decertify the current collective bargaining representative would be affected by a charge of unlawful recognition, as a "determination of merit in such a charge may impose conditions upon or preclude the existence of the question concerning representation sought to be raised by the petition. Casehandling Manual §11730(a) *citing Big Three Indus.*, 201 NLRB 197 (1973). Should Russell's 8(a)(2) charge be successful, his RD petition would be moot, as the bargaining relationship would likely be disestablished. Conversely, for his petition to be successful, either the charges in his consolidated Complaint would have to be successful, or he would otherwise have to remove the existing contract bar in place between the parties.

Further – none of the exceptions listed by the Casehandling Manual apply, and a request to proceed should not be approved in the face of a Type II charge. Casehandling Manual §11731.1(c). Nor would the Company be willing to withdraw recognition and enter into a *Carlson* waiver, as Petitioner's charges were untimely under Section 10(b) of the Act (to which the Company has filed a Motion to Dismiss), and the Company has executed lawful recognition and collective bargaining agreements with the Union.

Therefore, the UD and RD petitions filed by Russell should be held in abeyance, pending the resolution of the consolidated Complaint issued in connection with Case Nos. 29-CA-29530, 29-CA-29760, 29-CA-29544, 29-CA-29619 and 29-CB-13981.

If you have any questions, please do not hesitate to contact us.

Sincerely,



Tor Christensen
Counsel for MV Transportation, Inc.

EXHIBIT K

CARY KANE LLP

ATTORNEYS AT LAW
1350 BROADWAY, SUITE 815
NEW YORK, N.Y. 10018

TELEPHONE (212) 868-6300

FACSIMILE (212) 868-6302

WWW.CARYKANELAW.COM

GEORGE A. KIRSCHENBAUM



WRITER'S DIRECT DIAL
(212) 871-0536

October 20, 2009

BY FACSIMILE & FIRST CLASS MAIL

Nancy Lipin, Esq.
National Labor Relations Board
Region 29
Two Metro Tech Center North – 5th Floor
Brooklyn, NY 11201-4201

Re: MV Public Transportation, In.
NLRB Case Nos. 29-UD-298 & 29-RD-1137

Dear Ms. Lipin:

As you know, this office represents Local 707, International Brotherhood of Teamsters in these matters. You recently asked me to provide you with the Local Union's position as to whether the petition in 29-UD-298 can be processed in face of the pending unfair labor practice charges in Case Nos. 29-CA-29530, 29-CA-29760, 29-CA-29544, 29-CA-2619 and 29-CB-13981. I appreciate your agreement to give me until today to provide our position.

Local 707 submits that Region 29 should not process either the UD petition or the RD petition at this time. It is our position that neither petition can lead to a valid NLRB election until the above cited unfair labor practice cases are fully and finally resolved.

The Board's policy in regard to blocking charges is clearly outlined in the NLRB Casehandling Manual, Part 2, Representation Proceedings. "The Agency has a general policy of holding in abeyance the processing of a petition where a concurrent unfair labor practice charge is filed by a party to the petition and the charge alleges conduct that, if proven, would interfere with employee free choice in an election, if one were to be conducted." (Casehandling Manual, Section 11730). In addition, it is clear that, according to the Casehandling Manual, the RD petition **and** the UD petition should be treated alike since "to the extent relevant, the principles of these Sections should be applied to situations involving UD petitions." (Casehandling Manual, Sections 11730-11734).

The Casehandling Manual makes it clear that charges like those involved in the pending unfair labor practice cases, should block, if not cause the dismissal of all petitions. They are what are described in the Manual as "Type II charges that condition or preclude a question

CARY KANE LLP



Nancy Lipin, Esq.
October 20, 2009
Page 2

concerning recognition. If merit is found in the underlying unfair labor practice charges in these cases, and as result the bargaining relationship between Local 707 and MV Public Transportation is disestablished, then neither the RD nor the UD petitions will need to be processed. As the Casehandling Manual states at Section 11730.3(b)

An 8(a) (2) charge that seeks to disestablish a bargaining relationship imposes a condition upon the question concerning representation that the petition seeks to raise and **must be resolved** prior to processing the petition. In this situation, a determination of no merit, permitting the challenged bargaining relationship to continue, may because of contract or recognition bar principles, require dismissal of a related petition that seeks to establish a new bargaining relationship. **A determination of merit to the 8(a)(2) charge may cause the petition to continue to be blocked until resolution of the charge by the Board, since the bargaining relationship must be disestablished before the petition can be processed.** (Emphasis added).

In this case, if John Russell's charges against Local 707 and MV are ultimately successful, the bargaining relationship between the parties may be disestablished. In that case, there will be no need for the Region to process the RD petition. Likewise, there will be no need to process the UD petition which seeks to disestablish a Union Security provision in the Collective Bargaining Agreement.

Therefore, we urge Region 29 to refrain from processing both the RD petition and the UD petition filed by John Russell in this matter.

Please feel free to contact me if you wish to discuss this matter further.

Very truly yours,

George A. Kirschenbaum

GK:bms
cc: Kevin McCaffrey
Danny Pacheco

EXHIBIT L



United States Government

NATIONAL LABOR RELATIONS BOARD
Region 29
Two MetroTech Center, 5th Floor
Brooklyn, New York 11201-4201

October 22, 2009

John D. Russell
667 Quincy Ave.
Staten Island, NY 10305

MV Public Transportation, Inc.
Attn. Quinto Rappacioli
1963 Richmond Terrace
Staten Island, NY 10302

Local 707, Intl. Broth. of Teamsters
14 Front St., 3rd Fl.
Hempstead, NY 11550

H. Tor Christensen, Esq.
Littler Mendelson, P.C.
1150 17th St. N.W., Ste. 900
Washington, D.C. 20036

George Kirschenbaum, Esq.
Cary Kane LLP
1350 Broadway, Ste. 815
New York, NY 10018

RE: MV Public Transportation, Inc.
Case No. 29-UD-298

Dear Sirs:

A petition was filed on October 9, 2009, by employee John Russell, seeking an election under Section 9(e)(1) of the National Labor Relations Act, to determine whether certain of the employees of MV Public Transportation, Inc. ("the Employer") wish to withdraw the authority of the incumbent union, Local 707, International Brotherhood of Teamsters ("Local 707") to require, under its agreement with the Employer, that employees make certain payments to the union in order to retain their jobs.

For the reasons described below in more detail, I conclude that it is appropriate to proceed to a deauthorization election at this time.

Facts

The Region's investigation revealed that the Employer is engaged in providing paratransit services in multiple locations. In early September 2008, it executed a contract with the City of New York to provide paratransit services in Staten Island, and started

hiring employees for that purpose. On or about September 12, 2008, the Employer recognized Local 707 as the collective bargaining representative of its drivers. On or about December 12, 2008, the Employer and Local 707 entered into a collective bargaining agreement covering a unit of drivers and other classifications. Since then, the Employer and Local 707 have enforced the contract's union security clause.

On various dates in 2009, several unfair labor practices and representation petitions were filed by multiple parties. Those cases will not be described in detail here but, for present purposes, the following should be noted. On July 14, 2009, Local 1181, Amalgamated Transit Union, AFL-CIO ("Local 1181") filed a petition in Case No. 29-RC-11781, seeking to represent the same unit of employees hired by the Employer for the Staten Island contract. On September 30, 2009, the undersigned Regional Director issued a Consolidated Complaint in Case Nos. 29-CA-29530 *et al.* alleging, *inter alia*, that the Employer prematurely recognized Local 707 as employees' bargaining representative in September 2008, when the Employer did not yet employ a representative segment of its ultimate employee complement, and was not yet engaged in its normal operations under the Staten Island contract. The Consolidated Complaint alleges therefore that the Employer's recognition of Local 707 and its enforcement of the contractual union security clause violated Sections 8(a)(2) and (3) of the Act; and that Local 707's acceptance of recognition and dues payments violated Sections 8(b)(1)(A) and 8(b)(2) of the Act. A hearing before an administrative law judge is currently scheduled for December 8, 2009.

On October 9, 2009, employee John Russell filed two petitions: a decertification petition in Case No. 29-RD-1137, and the instant deauthorization petition, Case No. 29-UD-298. There is no dispute that Russell's decertification petition and Local 1181's petition in Case No. 29-RC-11781, are "blocked" pending resolution of the unfair labor practice cases described above. The specific issue presented in the instant UD case is whether, under these circumstances, a deauthorization election may be conducted independently of the other cases at this time.

The Employer and Local 707 both argue that the instant UD case should be held in abeyance until the pending unfair labor practice charges are resolved, under the Agency's "blocking charge" policy.

Discussion

Congress passed Section 9(e)(1) of the Act in 1951 to give employees who are covered by a contractual union security clause a chance to rescind or deauthorize the incumbent union's authority to enforce the clause. Since then, the Board has consistently held that Congress sought to give employees a statutory right to a *timely* deauthorization election with *immediate* results. For example, in Great Atlantic & Pacific Tea Co., 100 NLRB 1494 (1952), the Board rejected an incumbent union's argument that a deauthorization vote should not go into effect until the end of the relevant contract term. The Board stated that, to protect an unwilling majority's important statutory "safeguard,"

an affirmative deauthorization vote “immediately” revokes the union-security clause’s effect. It should be noted that, for similar reasons, the normal “contract bar” principles do not apply to deauthorization petitions.

Andor Co., Inc., 119 NLRB 925 (1957), has particular relevance to the issue herein. In that case, the existing collective bargaining agreement compelled employees to pay dues and “assessments” as a condition of their continued employment. An employee filed a deauthorization petition, but did not file an unfair labor practice charge. The Board’s decision noted that the contract’s assessments requirement clearly ran afoul of Section 8(a)(3)’s proviso allowing enforcement of a union security clause *only* if the employee failed to pay “periodic dues and initiation fees uniformly required,” not assessments (emphasis added). In holding that the possible unlawfulness of a union security clause does not prevent a deauthorization election from proceeding, the Board especially emphasized the importance of a timely election:

[W]e are of the opinion that the Congress [in enacting Section 9(e)(1)] ... was determined that a safety valve should exist whereby the employees might rid themselves of union-security provisions which they no longer desired. To refuse to entertain and process a deauthorization petition aimed at the removal of an unlawful union-security agreement would subject the employees to continued restraint and coercion until such time as appropriate charges could be filed, processed, and adjudicated. Such a time-consuming procedure might effectively destroy the statutory right of employees to eliminate union-security agreements disapproved by a majority of the employees, and would be at war with the entire scheme and purpose of the Act.

Id. 119 NLRB at 926.

More recently, in Covenant Aviation Security, LLC, 349 NLRB 699 (2007), the Board cited approvingly both the Great Atlantic & Pacific Tea and Andor Co. cases, *supra*. Although Covenant Aviation involved a showing of interest issue not relevant herein, the Board emphasized that “a *timely* effectuation of employee free choice [is] essential.” (emphasis in original). Covenant Aviation, 349 NLRB at 702.¹

In this case, there is no dispute that the parties’ collective bargaining agreement contains a union security clause which is being enforced, and which the undersigned alleges to be unlawful in the unfair labor practice charges described above. Furthermore, there is no dispute that Russell’s decertification petition (Case No. 29-RD-1137), as well as Local 1181’s petition (Case No. 29-RC-11781), are “blocked” pending resolution of those charges. The only question herein is whether the instant deauthorization petition must likewise be blocked, or whether an election may proceed independently at this time.

¹ After the Board’s decision in Covenant Aviation, the incumbent union filed a motion for preliminary injunction, seeking to enjoin the Agency from conducting a deauthorization election, but its motion was denied. 2007 WL 1880373 (N.D. Cal. 2007).

Based on the foregoing, I conclude that employees should not be forced to wait until resolution of the unfair labor practice cases to proceed to a deauthorization election. As stated above, Congress gave employees a clear statutory right to determine whether to authorize their contractual requirement to pay union dues as a condition of their employment. As the Board stated in *Andor, supra*, Section 9(e)(1) is an important "safety valve" allowing an unwilling majority to rid themselves of an undesired union security provision, whether legal or not. And, in my view, it must be afforded to employees immediately, rather than waiting for the lengthy litigation challenging the underlying collective bargaining relationship and the contract itself.

Finally, although the parties refer to the Agency's "blocking" policy, they fail to address an important difference between representation elections (RD and RC) and deauthorization elections. Specifically, if employees succeed in deauthorizing Local 707 from compelling dues as a condition of their employment, it voids the union security clause, but it does not change the employees' representation status. Employees would still be represented by Local 707 and governed by the collective bargaining agreement, until such time as its lawfulness is determined. In that sense, the alleged unlawful conduct that would interfere with employees' choice in a representation election is not "inherently inconsistent" with the UD petition, for the UD petition asks a different question. Thus, the UD petition does not raise a question concerning representation, and the normal blocking policy does not apply. Furthermore, if the General Counsel ultimately prevails in the unfair labor practice cases, then to block the deauthorization election now would continue to coerce employees and to improperly benefit the wrongdoers in the intervening time period.

Conclusion

Accordingly, pursuant to Section 9(e)(1) of the National Labor Relations Act, and Section 102.85 of the Board's Rules and Regulations, an election by secret ballot will be conducted as provided in the notice of election to be issued shortly.²

² In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the full names and addresses of all the eligible voters, must be filed by the Employer with the undersigned within seven days of the date of this letter directing an election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, Two MetroTech Center, 5th Floor, Brooklyn, NY 11201, on or before **October 29, 2009**. No extension of time to file this list may be granted except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall, or by department, etc.).

Additional copies of the notice of election will be furnished to the Employer for posting in conspicuous places throughout the plant. Your attention is directed to Section 103.20 of the Board's Rules and Regulations, which provides that the Employer must post the Board's official Notice of Election at least three (3) full working days before the date of the election, excluding Saturdays, Sundays and holidays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

If you have any questions, please contact Board Agent Nancy Lipin at (718) 330-7705.

Your cooperation is appreciated.

Very truly yours,



Alvin Blyer
Regional Director

Enclosures



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 29
TWO METROTECH CENTER
FIFTH FLOOR
BROOKLYN, N.Y. 11201-3838

Facsimile Cover Sheet

To: attn: *Littler Mendelson, PC*
H. Tor Christensen, Esq.

Addressee:

Phone:

Fax:

202-842-0011

From:

Agency: Region 29

Phone: 718-330-

Fax: 718-330-7579

Date:

10/21/09

Pages including this
cover page: 1

CONFIDENTIALITY NOTICE
OFFICIAL GOVERNMENT BUSINESS

This communication is intended for the sole use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify this office immediately by telephone call at the above number, and return this communication to us at the address above via United States Postal Service. Thank you.

Comments: